S. HRG. 100-989

CHILD ABUSE AND NEGLECT

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARING ON CHILD ABUSE AND NEGLECT AMONG THE NATIVE AMERICAN POPULATION

NOVEMBER 22, 1988
FLAGSTAFF, AZ

U.S. GOVERNMENT PRINTING OFFICE
93-286 WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S 411-15

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CONTENTS

Statements: Page

Barber, Wilson, area director, Phoenix Area Office, Bureau of Indian Affairs, U.S. Department of the Interior 28
Brenneman, Dr. George, chief of maternal and child health, Indian Health and Human Services 24
Brown, Eddie, director, Arizona Department of Economic Security 42
Hood, Debra, Polacca, AZ 5
Lewis, John, executive director, Inter Tribal Council of Arizona 47
Lomahaptewa, Sylvia, First Mesa, AZ 6
McCain, Hon. John, U.S. Senator from Arizona 1
McNamee, Stephen, U.S. attorney, District of Arizona, U.S. Department of Justice 34
Roanhorse, Anselm, director, Division of Health and Social Services, the Navajo Nation 15
Sidney, Ivan, chairman, Hopi Tribe 3
Wasserman, Eidell, Special Child Sexual Abuse Project Director, the Hopi Tribe 12

APPENDIX

Prepared statements:

Barber, Wilson 82
Brenneman, Dr. George 72
Brown, Eddie 97
Courchene, Richard, senior researcher, Fort Peck Tribes 116
Francisco, Enos, Jr., chairman, Tohono O'Odham Nation 122
Hood, Debra 55
Lewis, John (with attachments) 107
McNamee, Stephen 86
Patterson, Mary Ann 56
Roanhorse, Anselm, on behalf of the Navajo Tribal Division of Health and Social Services, Flagstaff, AZ 61
Wasserman, Eidell 58

CHILD ABUSE AND NEGLECT

TUESDAY, NOVEMBER 22, 1988

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Flagstaff, AZ.

The committee met, pursuant to notice, at 9:17 a.m., on the campus of Northern Arizona University, Hon. John McCain (acting chairman of the committee) presiding.

Present: Senator McCain.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

Senator MCCAIN. The Select Committee on Indian Affairs will come to order.

This morning we have come together to examine a very disturbing and, indeed, tragic issue, that of child abuse and neglect among the American Indian population.

Child abuse and neglect is a serious problem throughout the nation. Every year, tens of thousands of children in the United States lose their lives as a result of child abuse or neglect. For those who survive, there is often permanent damage such as developmental, psychological, and medical problems that include learning disabilities, motor handicaps, and mental retardation.

I think all of us were horrified at the reports of what John W. Boone did to a great number of young boys during his tenure at Polacca Day School. We have been equally horrified by the tragic stories of teachers at Greasewood and at Kayenta and the ensuing tragedies that took place there as well as on Indian reservations throughout this country. We have Mr. Boone and others behind bars now, but the effect on their victims lingers on.

Like everyone here and throughout our State, I read with sorrow the account in Sunday's Arizona Republic of the scars that John Boone's criminal behavior has left on these boys, their families, and the tribal community. The realities of this subject pain us all greatly and at many different levels—as parents, as family members, as members of the community, and, indeed, as public servants.

I think we are pained by the fact that it seems that we have not done a very effective job to date in helping to resolve the problem, particularly as it pertains to Native Americans. I am troubled that, according to many experts in the field, child abuse and neglect is often carried on from generation to generation by those who themselves were the subject of abuse or neglect as children.

While the issue of child abuse is present among all groups of Americans, one of the groups it seems to be most prevalent among in terms of per capita cases is Native Americans. Some have claimed that the incidences of child abuse are as many as four times higher on reservations than among non-Indians.

I have called this hearing out of a deep and abiding concern regarding this issue. Today, we will focus on the magnitude of the problem, prevention and treatment programs for victims, and the prosecution and sentencing of offenders.

To accomplish this, I think we will need to achieve the following:

To examine the magnitude of the problem of child abuse and neglect among the American Indian population;

To learn what unique variables exist among Native Americans that make child abuse and neglect more prevalent than among the non-Indian population, including what appears to be an extraordinarily long period of time before perpetrators of these kinds of activities are brought to justice;

To gain a base of knowledge regarding what is currently being done on-reservation in the way of interdiction and treatment programs;

To begin defining where the shortcomings or flaws in existing programs are and how they might be eradicated;

To determine what, if any, new programs should be implemented;

To learn what the State and Federal governments are doing to assist the tribes in dealing with the problem and determine where the shortcomings are and what, if any, changes should be made; and

To determine what new laws or changes in existing laws are needed to more effectively protect those who are being abused.

I don't come with a specific legislative agenda in mind for dealing with this issue. I believe that is why we have congressional hearings, and that is why it is important to receive the input of the very credible and important witnesses that we have before us today. I can assure you that I speak for the entire Senate Select Committee on Indian Affairs when I say that this issue will be of primary importance on the agenda when we go into session beginning in January.

We have a great number of witnesses today, and I would like to ask each witness to confine their statements to as brief a statement as possible. We have received all of your written statements in order to facilitate the flow of the hearing. At the same time, we want to have ample time for questions and answers, so that we can thoroughly explore this issue with you.

I look forward to the valuable contribution that all of you are making today, and I know that all of us are learning a great deal about this very tragic subject.

Let me emphasize again what is happening, in my view, on Indian reservations today in the area of child abuse and neglect. It is no longer an area that we can ignore or delay addressing. One facet of addressing this issue is through Federal legislation. Another is through State and local authorities as well as reservation/tribal governments addressing the issue.

I am not here to put the blame on people. There is enough blame and responsibility to go around. Our job and our goal, I believe, is to address and eradicate the problem as quickly as possible.

Our first panel this morning are three parents who have requested the opportunity—and I emphasize they have requested the opportunity—to be here to testify regarding the effects that child abuse has had on their children and on their families. I appreciate your being here today and your willingness to share with us your first-hand experiences with this terribly painful and tragic subject. I would like to welcome our first panel which consists of Mrs. Debra Hood of Polacca, Ms. Mary Ann Patterson of Hotevilla, and Ms. Sylvia Lomahaptewa of First Mesa. Accompanying these parents is the distinguished Chairman of the Hopi Tribe, Mr. Ivan Sidney.

Chairman Sidney, would you like to lead off and make your statement?

STATEMENT OF HON. IVAN SIDNEY, CHAIRMAN, HOPI TRIBE

Mr. SIDNEY. Thank you, Senator.

First of all, I would like to thank Chairman Inouye and the Senate Select Committee on Indian Affairs and especially yourself for being our Senator and coming here to northern Arizona to conduct such an important hearing.

My statement, Senator, is going to be a summary, because what better than to have the people affected speak for themselves. Had it been in Washington, the testimony would have been on my shoulders, but, today, I feel it is so important to hear them directly.

However, I would like to say from the outset that the Hopi people have long been self-sufficient, and maybe we are looking today at too much dependency, particularly on the Federal Government. When the child abuse case was first initiated on Hopi, I was very thankful that the parents and the community tried an effort from the beginning themselves. I feel that it is so important what we do for ourselves first.

Today marks the anniversary of the assassination of President Kennedy who tried to tell the American people to do what we can for ourselves, and this has really been the philosophy of the Hopi people themselves.

The Polacca incident is something that has been talked about. The parents here today will speak to it, the agony, what is in the future for all of us. Today it is so important, because we still have the ingredients for a very sound native American people. We have proud young people. On Hopi, we have a wonderful high school—thank you for your assistance. We have grandparents, parents and tribal government to support our young people. Again, the ingredients are there.

However, right now, we are looking to you and the committee to continue our efforts.

Let me make a comment on what initiated this whole incident. It started with Polacca Day School. Polacca Day School is a Bureau of Indian Affairs-operated school. We still have the Government responsible for our schools.

Public Law 95-561 was intended to give the administrative authority to the local communities. Senator, I would like to have this committee look at that particular law, because we still find today that much of the authority for hiring and firing is still taken away from the intent of that law. We feel that in the future, we have recommendations to prevent such people as Mr. Boone from coming to a community and make such a disruption in the lives of the people involved.

Also, I want to bring to your attention that the Bureau of Indian Affairs interprets this particular law in different areas differently. Our neighboring Navajo community, for example, has better control of its school in Tuba City. We are situated next to them, but our laws are interpreted differently. This inconsistency has to be looked at carefully.

I also feel that this committee should make initiatives for day care centers on reservations. We have had a successful Head Start Program, and I am glad that the new Administration is looking favorably at continuing this program. This day care center is something that is going to protect our young children, because we find more young working mothers, and we need healthy environments for all of our young people. Maybe seed money could be looked at to start these centers and begin to take over such programs.

Also, Senator, is the Swimmer initiative, as it was called some time ago, should be looked at again. Maybe he was trying to tell us something about looking at ways of controlling our own schools. The Bureau of Indian Affairs has seen its time. It is time now that we as Indian people look at our education system and make decisions for ourselves.

I see today that many times, like on this campus, there is emphasis on juvenile offenders. This university teaches that at times when coordination is not in effect is when these types of problems develop.

For example, on Hopi when this incident occurred, we had the Indian Health Service on our reservation which was there for health care. We had two BIA heads, one a superintendent for administration and one a superintendent for education. One was overseeing Polacca Day School. The other one was responsible for law enforcement on reservation. Now, we have the Hopi tribe.

So, with non-coordination, these problems seem to compound. We have to look at this initiative to accomplish a better coordination.

We have a project at Polacca funded by the Bureau of Indian Affairs since this incident. Seventeen months after the incident, we finally got a project funded. It is now facing termination because of no more funds. What a time to see that when things are beginning to go forward.

Senator, I was told by the Bureau of Indian Affairs, first of all, they funded the whole initiative, that the Indian Health Service has taken the position that it is not their responsibility to fund such programs.

I disagree with that, I feel it is a coordination of everyone. I fully support the efforts to continue this project not only for Polacca but for the reservation as a whole. Today, we only have one professional psychiatrist and two temporaries that come on visits, but they cannot meet the demands.

Hopi people are proud people just like other Native people. Confidentiality has a lot to do with this case also.

These parents that are with me have been raising funds from food sales and have been holding their own sessions. They have taken the courage to go and talk about their own personal lives, and that is a lot. I am very warmed that you yourself are here today to listen.

I am only taking this time to make my own personal remarks. Our project reports will be submitted for the record, Mr. Senator, and my statement will also be submitted for the record.

I look forward to working with you and the new Administration on our efforts. I would like your assistance in calling on the new Administration that we call for a White House summit to get Indian leaders together and talk about such issues. I feel that Indians have relied on social programs that have given us and compounded our alcoholism and drug problems rather than looking at programs other than social programs to get jobs and better education. Those are things that develop healthy minds. We need to develop our agriculture, our arts and crafts, and our traditions.

We are a proud people. We are going to continue to be proud. We have gone through the worst storms. Senator, with people like yourself, we are going to see ourselves through.

I have with me two of the parents involved, Debbie Hood to my left and Sylvia Lomahaptewa. They are parents who will give their testimony. Mary is from Hotevilla and is not affected, but they have similar problems. So, you can see that we have problems reservation-wide.

Thank you for the time for allowing me to make this statement. I will turn it over to Debbie first to make her statement.

Senator MCCAIN. Thank you, Mr. Chairman, and thank you for all of your efforts on this issue as well as many others. We are very proud to have had the opportunity of working with you for many years now—despite the fact that you still look very young.

Mr. SIDNEY. Thank you, Senator.

Senator MCCAIN. Ms. Hood, welcome and please proceed with your statement however you see fit.

STATEMENT OF DEBRA HOOD, POLACCA, AZ

Ms. HOOD. Thank you, Senator.

I think you have my written statement. I would just like to add a little bit more to that.

John Boone's crime against our children is a permanent injury, and it is an injury that won't go away in 1 year or in 3 years or in 5 years. As I see it, therapy will be needed for my children when they decide to get married, even maybe when they decide to have children of their own. Therapy will be a part of their lives, and we need to have more therapy now.

If we can work with the younger people, we can avoid a lot of the pain and suffering, and if we can provide services to the victims now, they can have understanding of what has happened to them. I think that is a lot of their problem. They are in confusion and a lot of blaming themselves for it, because they feel that they should have controlled the situation.

If they had that understanding, I know it would make it a lot easier for them to deal with it. In this way, we can be productive individuals rather than abusers, alcoholics, and addicts, and we can then have survivors rather than social outcasts within our community.

As I said in my testimony, I have lived through a lot of it, and I have had to look reality in the face really hard this past 21 months in order to be available and understanding and more loving to my children. They need a lot more than what they are getting. We have been making do with what we have had, but these issues won't go away.

As I said in my testimony, my 16-year-old daughter tried to commit suicide. She is so affected by all of this also, and she is away in treatment, and to this day—that has been 30 days ago—I still haven't been able to get in to deal with the emotional pain of that. It has all had to be squelched until there are available services.

Being in the community and working with community members, I see a lot of children that are crying out for understanding. They want the services, but they are afraid, because there is not much. In a way, it is just setting them up for failure if they are wanting help and there is really little available for them. But I know there are a lot of children out there who are crying out for that help.

We did community activities this summer, and it was really heartbreaking to find children on my doorstep in the morning just wanting that extra attention and that positive attitude that I have been learning to have about this whole thing. We need to educate our parents also. We just need to get more services out there.

I hope we can get something started soon, because, like I said, a lot of us have been patient for a long time, and it gets very hard to try to get up in the morning and continue, but we have to do it. We have to make a difference for these children.

I would greatly appreciate it—I know my family would appreciate it—if you could help in any way to get the funding out there and get these professional services started.

Thank you.

[Prepared statement of Ms. Hood appears in appendix.]

Senator McCain. Thank you.

Ms. Sylvia Lomahaptewa.

STATEMENT OF SYLVIA LOMAHAPTEWA, FIRST MESA, AZ

Ms. Lomahaptewa. Good morning, and thank you for taking time to listen to what we have to share with you.

I am Sylvia Lomahaptewa, and I am a parent and a very concerned member of our Hopi community. Having been one of the first parents to step out and try to face the situation that happened in our community has been very difficult for me. I have had daily contact with everyone in the community regardless of if they had a child involved with Mr. Boone. It has been heartbreaking and took a lot for me to stand out there and try to help the families that were in pain and try to help the children

I really feel from my heart that funding should be made available for this project to continue. We have since been able to reach

out to many other families, but it has taken a year for them to finally come out and address their concerns. They do need services. They do need the help, but due to limited funding, we are unable to meet the needs of the community.

We have just one specialist, a psychologist, who is out there right now with us, and we have two that come in every other week but can't possibly cover the whole Hopi reservation. Since we started our parent support group, we have been able to reach out to other communities, and they also have begun to try to educate themselves and their children.

I really appreciate having the time to come here and share with you, because I think it has been affecting everyone in the community and it still is and it will continue. My dream is to see our future, our Hopi children, grow up to be healthy and lead productive, responsible lives, and we appreciate anything that can come our way to make it a healthy environment for our children.

Thank you.

Senator McCAIN. Thank you.

Ms. Mary Ann Patterson.

STATEMENT OF MARY ANN PATTERSON, HOTEVILLA, AZ

Ms. PATTERSON. Good morning, Senator.

As stated in my testimony that I have submitted to you, these things cannot be forgotten. I am 45 years old, and it has stayed with me for this long. So, I can understand what these children are going through. I can see what it could do to them in the future. It will never be forgotten.

I could probably not have dealt with this myself if it weren't for the support group that they have going down there down or through the Boone incident. This is what came out that started me to start looking at myself and what these children could be going through now. So, I got involved, and we have a support group going now in my community.

What I really want is more people to be helping these children. They need it.

After getting involved, I started talking on behalf of my community and my people and trying to make them aware of these things. As I have stated, we are a bunch of proud people. We are so proud that we keep these things to ourselves. We don't bring it out. It stays with us. We see these things; yet, these kinds of abuses just cannot be talked about.

We cannot go out to people and discuss it openly and it hurts so much, that we get ourselves involved in alcoholism, drugs, and all these things to hide it within us. We abuse ourselves by trying to hide it and keep the guilt feelings inside of us.

Ever since I got involved in these programs and workshops, trying to get myself more educated as to what I can do for my community and for my people, community members in my village have been coming to talk to me. As I have stated, there are three cases right there. They came to me because I became more aware of these things, hoping that I would be able to help them without having to tell other people about it.

They don't want others to know what is happening to their children and even to them and I tell them the only place is the guidance center. I am not a professional, but I know what happened to me, and I can understand what your children are going through.

But once they are referred to the guidance center, what help is there? There is only one person that can deal with them, one professional person. Other than that, there is nobody else except two other people that come in from Albuquerque.

We are a closely knit family. We are so close that all our people are related to one another in different ways, even through all the villages. We hate to prosecute our own people, but I think it is about time we start doing these things. That is why I will always encourage my community members that no matter what relation they are to us, they will have to go out and do something about it, because they are our children. They are going to be our leaders in the future.

If they are going to be holding this burden on their shoulders as long as they live without getting help, what kind of leaders will they make?

These are some of the concerns that I have. They are very deep concerns.

If I had had help a long time ago, maybe it would have been different. I don't know, but my children have suffered through my own sufferings. They have suffered. One has tried to commit suicide. One is now in a home for boys.

Now, I am trying to get a teen group going in my own village to do something for these children, because there is no recreation on our reservation that these children can go to. When he comes home on leave, what does he do? I am glad I have a VCR. Yet, we don't have electricity in our village. That is the only recreation that he looks forward to. Otherwise, when he goes out that door, there is nothing except the same peer group that comes to take him somewhere else for drugs and what not.

We need a lot of help out there, and I am proud to say that I have now enough strength to sit here before you to bring all these things out to you and hope that you will understand us and help us.

Thank you.

[Prepared statement of Ms. Patterson appears in appendix.]

Senator McCain. Thank you.

One thing I would like to assure you of is that we will provide funding, Chairman Sidney, to continue this program. I can make that commitment to you and will make sure that that happens. Obviously, we need a lot more, but, immediately, from your testimony, we need a continuation of at least the existing program, and I can assure you that will happen.

I just have a couple of questions.

First of all, Ms. Hood, you said in your oral statement that the children blame themselves. What do you mean by that?

Ms. Hood. Well, they feel that it was their body and they should have been able to tell Mr. Boone not to bother them, but since he did abuse them and they couldn't get away from it, they are blaming themselves for it, like it is my fault I let him do that. I should have been able to control him.

In fact, that isn't so. You cannot control an adult like that. A lot of them feel a lot of guilt that way.

Senator MCCAIN. Do you find that to be the case, too, Ms. Lomahaptewa?

Ms. LOMAHAPTEWA. Yes; because the children are always taught to respect their elders. So, with that in mind, the children were vulnerable to what he was doing with them, and he had his ways to have the children give him their attention which is really sad, because there is a very large number of them that are affected by it.

I also forgot to mention that we have a very long waiting list of clients that have not received services, but due to nobody there to help them, we can't meet their needs.

Senator MCCAIN. About how many?

Ms. LOMAHAPTEWA. We have probably right now about 25 who are waiting, and the case load is just tremendous. It is very high.

Senator MCCAIN. Chairman Sidney, I will ask other witnesses this question, but in this particular case—and I don't mean to focus so much on the Boone case, because, obviously, that is just one case—but the thing that has been asked of me that I will be asking other witnesses as well is, how do you account for the fact that this kind of outrage could have been perpetrated for as long a period as 9 years?

Mr. SIDNEY. I believe one of the parents stated so well and eloquently that, speaking for Hopis, we tend to look too much at how we are related. Also, we are a very close knit and sometimes very proud people, so much so that we don't bring out the problems that we have.

In my earlier statement, I said we depend too much on others to make decisions for us, in this case, the Bureau of Indian Affairs. There have been incidents, but they are incidents that have only been on the surface.

What we need to do now is, through a better education process, through better involvement of the parents, to begin to have these things looked at. Since this incident, there have been more reported than ever before. It started here, although all along the problems and concern was there.

We have to also say that the children seem to be unhappy because of a lack of recreation for them. You and I, Senator, know very well that it is really up to tribal leadership to provide those kinds of things. Through your assistance and the new Congress, hopefully, we can put issues behind us and spend our resources to bettering our lives.

Right now, we are seeing tribal moneys spent on other priorities rather than those affecting the daily lives of our people, and that is totally unfair.

Also, I call on you and the other Members of Congress that somehow in this case, the Federal Government is responsible because not only of its employees but of its policies and also that their BIA law enforcement are still responsible for law enforcement on Hopi today.

I am sorry to put it this way, Senator—but it has become a learning experience through the painful agony of the people that are involved, and I share that experience also. It is not only on

Hopi, but I see it in other native communities. That is why I really see that the root of this whole issue is better jobs, better education, and healthy environments rather than just continuing to compound social programs on reservations which, to me, have the long-term effect of more dependency on the Federal Government.

Senator McCAIN. Thank you.

I just have one more question for the parents, starting with you, Ms. Patterson. What has been the most effective treatment that the children have received?

Ms. PATTERSON. Well, from looking at probably some of these children, probably the effective treatment is through the guidance center, because the one person that I am referring all these children from my community to the guidance center, and they go over there for treatment. I don't know if some of them are still on the waiting list, but I know for one person that she is coming out and talking, but I don't know how it will be later on in the future. At least, she is getting the help that she needs.

Senator McCAIN. Thank you.

Ms. Lomahaptewa, what do you believe has been the most effective treatment that your children have received?

Ms. LOMAHAPTEWA. During the summer, we had a therapeutic recreation program where the parents volunteered who were very active in the parents group along with myself and Dr. Wasserman. We had a project called the "BABES." It is a program of awareness on alcohol and addiction studies.

The children participate through the use of puppets in learning the effects of alcohol and building self-esteem and just little therapeutic sessions like that. It is all strictly volunteer from parents.

I think we have been able to get to the children and let them know that there are ways to deal with their problems and that there is a better life for them, as long as someone is there to show them that they care.

Senator McCAIN. Ms. Hood.

Ms. HOOD. I believe the most effective treatment has been with the therapists that come from Albuquerque, Ken and Dave. They see quite a few families in the short time they have.

As Sylvia stated, also the therapeutic recreation we did all summer—and it was all parent volunteer, and a lot of us parents educated ourselves. Also, through workshops, we have learned a lot of ways of dealing and talking with these children. So, I know we have been instrumental also.

Senator McCAIN. So, what I think I am hearing is that it is a combination of a Federal program and professional therapists combined with parental and community involvement. Is that the right formula?

Ms. HOOD. I believe it to be.

Senator McCAIN. We just need more of it?

Ms. HOOD. There are quite a few parents wanting to do all this, too. There are quite a few who are coming up and wanting to be involved and to learn new ways of parenting. We have been putting on in-service training during our parent support group meetings in the evening. We had one last night, and it was really a learning process.

Senator McCAIN. Very frankly, I would like to spend the next couple of hours with just this panel, and I am sorry that we don't have enough time to explore this more, because I think that what you have provided this committee is the first-hand and most important lessons from the terrible and traumatic experience that you have undergone.

We are very appreciative that you should seek to testify before this committee. Please don't believe that your time is wasted. It is not, and you have contributed enormously, I think, to the efforts that we are going to be making in the future.

And thank you, Chairman Sidney, for your involvement and your continued commitment on this issue.

Mr. SIDNEY. Thank you.

Senator McCAIN. Chairman Sidney always has the last word.

Mr. SIDNEY. Senator, thank you again for coming here for all of our native people here. Let me just make this quick statement.

The project now with the professional help coming is a start to build our confidence on Hopi, but we see it as gradually, some day, we are taking over the program itself. However, where we are today needs to continue. We must train ourselves and, eventually, we will become able to run the program ourselves.

We want this funding to continue.

Thank you again. Sometimes we don't mention staff, Senator, but Dan Lewis has been very much help to the tribe, and I want to thank him on the record for that.

Senator McCAIN. Thank you, Mr. Sidney. I will try to calm him down after that.

Thank you very much. Thank you all for being here.

The next panel will be Dr. Eidell Wasserman who is the Special Child Sexual Abuse Project Director of the Hopi Tribe and Mr. Anselm Roanhorse who is the Director of the Division of Health and Social Services of the Navajo Nation. Mr. Roanhorse will be accompanied by Ms. Po Lui, staff attorney for the Navajo Nation Department of Justice.

Would you please come forward?

I mentioned three people and four came forward, perhaps I can have the fourth person identified.

Mr. BEGAY. My name is Francis Begay. I am the agency center director for the Tuba City Agency, Division of Health and Social Services.

Senator McCAIN. Thank you, Mr. Begay.

Let the record show that Mr. Begay is here, and now we are up to five.

Mr. CHEE. Senator, my name is Marvin Chee. I am with the Navajo Nation.

Senator McCAIN. Thank you.

Dr. Wasserman, would you care to lead off?

As I mentioned at the outset, if you would care to summarize your statements so we will have more time for questions and answers, please feel free to do so. Your complete statements will be made part of the record.

Please proceed.

STATEMENT OF EIDELL WASSERMAN, SPECIAL CHILD SEXUAL ABUSE PROJECT DIRECTOR, THE HOPI TRIBE

Dr. WASSERMAN. On behalf of the Hopi Tribe's Special Child Sexual Abuse Project, I am pleased to present my statement and the written documentation which accompanies it as part of the hearing record of the Senate Select Committee on Indian Affairs.

I would like to commend Chairman Inouye and Senator McCain for their commitment to addressing this issue of abuse of native American children.

I would like to present you with a summary of the Hopi Special Child Sexual Abuse Project. You have heard a lot from the parents, so I will try to edit my written testimony accordingly.

My name is Eidell Wasserman. I have a Ph.D. in clinical psychology, and I am the Director of the Special Child Sexual Abuse Project. I have several years of experience in working with troubled families and with sexual abuse victims and their families, and I have been employed by the Hopi Tribe since May 2 of this year to develop a model sexual abuse prevention and treatment program for native Americans.

There has been a lot of talk about the Boone case, and that certainly doesn't need to be gone into except to put into perspective that it is now 21 months since that first disclosure came about, and in the community, just like in a family, when an incident of sexual abuse comes to be known, there are some very typical psychological reactions—shock, anger, a tendency to blame the victim, and, perhaps most importantly, denial.

These very natural responses lead to problems if you are a service provider. You can't just jump in and expect that people are going to come and knock on your door the next day. The denial takes time and energy to break down.

That is what we have been seeing. Now that it is 21 months later, there are people that are just for the first time able to accept that the situation has happened and to come and seek help.

Last night at our parent meeting, we had a very good example of this, a lady that came for the first time who had found out months ago that her husband had been sexually abusing their teenage daughter. She said, "Every Monday night, I would see the lights on at the church where the group meets. Some nights, I would put on my jacket, some nights I would even make it out the front door, but something would always keep me back."

Sometimes, people may even get as far as the parking lot, but you have to be there week after week. That service has to be available and people have to know it, so that when their time comes, when they are finally able to walk through the door, there is somebody inside who can offer them the help.

During the past year or so since the funding became available for the special project, as we call it, we have provided, I think, a very wide range of services with extremely limited staff, and I really want to commend Sylvia Lomahaptewa for the excellent job that she has done. She was the driving force behind organizing the Polacca parents group, and that group has now been meeting for over 1 year. As Mary pointed out, we have also started a second parents group in the Third Mesa area as well.

You know about the increase in reported abuse cases in schools. As Chairman Sidney mentioned, we have kind of opened the floodgates. Once the Polacca incident became known, then it became sort of a freer atmosphere to talk about the whole issue of sexual abuse.

Perhaps, Senator, before you get to ask me the question that you asked Chairman Sidney about how this could go on for so long, let me say a couple of things about that. I think that the people on the Hopi Reservation were basically naive, not in any type of negative way, but the issue of sexual abuse and the issue that a teacher in a school could abuse over 100 children never entered people's minds.

Now, when we do education presentations, people say, oh, these are the symptoms. If I had known that these were the symptoms of sexual abuse when I had seen my son do this or when he wouldn't dress out for P.E. or this or that, I would have known, but there wasn't any education. People didn't even know to connect the symptoms that they were seeing with any possible causes.

Now that it is more acceptable to talk about the whole issue of sexual abuse, people are coming forward. People who were themselves abused 10, 20, 30, or 40 years ago finally have the opportunity to talk about it, because it is out there and people are less stigmatized by it.

We have presented a number of educational and prevention workshops all across the reservation. On all three mesa areas, we have made presentations. We made a presentation at this year's Hopi Mental Health Conference, myself and Sylvia and two of the parents. That was very well attended and also very well rated by the participants in it.

As the need for services has increased as a result of the public awareness that we have been able to generate, the funds have not only decreased, but they have basically disappeared. To provide just a real quick summary, the project received no funding for fiscal year 1989. In 1987, the Hopi Tribe received $179,000 to provide therapeutic services. The $100,000 was a one-time grant by the Department of Health and Human Services, and $79,000 was a supplemental grant from BIA Social Services through the Indian Child Welfare Act.

The funds from that $79,000 grant actually ended on June 30, 1988, and the Health and Human Services grant is scheduled to end on December 31 of this year. Basically, we are living on carryover of unspent funds from last year.

When this situation first arose, the tribe prepared a very good proposal over a 5-year period of time with an average cost of about $500,000. The total package was about a $3 million, 5-year proposal. That is the funding level that is really needed to be funded. Instead, the tribe got $179,000. There is quite a disparity in those amounts, and I think you have heard the effects of that.

The project staff, as I think you are aware, currently consists of myself, Sylvia, and the two social workers that come from Albuquerque 2 days every other week. I think it is obvious, but it bears repeating, that this level of staffing is totally inadequate to the problem.

There is no way as a project director and administrator that I am able to recruit people to work in the project. There isn't any

way to do that when you can't promise to pay them beyond December 31 and you are trying to hire them in August.

We have the community support. The church groups are very supportive of us. They lend us their facilities, their time, their art supplies. The community is very supportive. This summer when we did our therapeutic recreation program and we did some things like pottery making and we had some of the older ladies from the villages who came with their polishing stones and their yucca leaves—people brought whatever they could and the knowledge that they had, and everybody is very supportive of us. And the tribe is very supportive, as Chairman Sidney indicated, and I want to, also for the record, thank him for his support for the project.

But that is not enough. We need the money to be able to recruit the staff so that when we do make the presentations and people come to us for service, we don't have to put them on the waiting list that Sylvia referred to. There are indeed 25 families and individuals currently on that waiting list.

You will see on the fact sheet that I submitted in the written documentation, as of October 4, I believe, there were 15. Now, there are 25, and the list just keeps growing, because we don't have anyone to provide those services.

There are qualified professionals that want to come to Hopi. Right now, I have a résumé on my desk from a Ph.D. psychologist with experience dealing with sexual abuse victims. He is a native American, and he wants to return to the area that he is originally from.

But I can't do anything with that. I can't call him up and even invite him for an interview, because there is not a job.

I called him up and I said this looks really good and if you are in the area, please stop by, but I can't ask you to come for an interview, because I don't have any money to pay you. I couldn't hire you for the position.

I am a professional, and I am an outsider to Hopi. I have provided you with facts and figures in the written documentation that goes along with my oral testimony, but I can't speak personally of the pain that is experienced by the families on Hopi. I see some of the children in therapy. I see their academic difficulties, their lack of self-esteem, their inability to form age-appropriate social relationships, their sadness, their withdrawal, and their pain. I see their parents—guilt-ridden, lacking in skills to deal with their children's problems, and many of them beginning to deal with their own abuse and victimization.

You have had the opportunity to hear some of these parents speak for themselves, and I hope in the brief time that they had to speak to you that you have seen what I have seen—the courage and strength which continuously humbles me, the willingness to confront their greatest fear and to turn their pain and anger into positive action to help their community.

In the face of such courage, how can we, through lack of funding, deny them the bare essentials to heal themselves and their children?

Thank you.

[Prepared statement of Ms. Wasserman appears in appendix.]

Senator McCain. Thank you.

Mr. Roanhorse.

STATEMENT OF ANSELM ROANHORSE, DIRECTOR, DIVISION OF HEALTH AND SOCIAL SERVICES, THE NAVAJO NATION, ACCOMPANIED BY PO LUI, ATTORNEY, NAVAJO NATION DEPARTMENT OF JUSTICE; FRANCIS BEGAY, AGENCY CENTER DIRECTOR, DIVISION OF HEALTH AND SOCIAL SERVICES, TUBA CITY, AZ; AND MARVIN CHEE, AGENCY CENTER DIRECTOR, DIVISION OF HEALTH AND SOCIAL SERVICES, CHINLE, AZ

Mr. ROANHORSE. Thank you.

Senator McCain, staff, ladies and gentlemen, I am deeply honored to present this testimony on behalf of the Navajo Nation regarding child abuse and child neglect. I would also like to thank you for conducting this field hearing. It is very obvious that child abuse and child neglect is a big issue in Indian country.

My name is Anselm Roanhorse, Jr., and I am the Acting Executive Director for the Navajo Tribal Division of Health and Social Services in Window Rock, AZ. Also at this time, I would like to introduce other tribal staff that have accompanied me.

Starting on my left, this is Francis Begay who is the Agency Center Director for the Division of Health and Social Services in Tuba City, AZ. To my immediate left is Violet Po Lui, attorney for the Navajo Tribal Department of Justice. To my far right is Marvin Chee who is the Agency Center Director for the Chinle Agency in Chinle, AZ, under the Navajo Tribal Division of Health and Social Services.

Within the next few minutes, I would like to describe in detail what our social workers encounter when they are asked to intervene on a child abuse or child neglect case.

In any situation involving a child abuse or child neglect case, a social worker must coordinate services with police officers, medical doctors, the courts, et cetera. It is the primary responsibility of the social worker to seek and obtain evidence which proves the alleged abuse and neglect beyond a reasonable doubt, evidence required for the police reports, photographs, doctors' statements regarding medical condition and examinations, and/or affidavits of witnesses.

As part of the protective services, the social worker does the family assessment and submits a written social services report to the court. The assessment report must include an evaluation and recommendations for treatment services.

Social workers often encounter numerous problems which affect the service delivery, and some of these problems include, number one, the time factor. The 72-hour time limit to deliver adequate and effective child protective services is realistic. However, numerous obstacles still exist and must be eliminated.

Factors include the availability of the social worker, the case load of the case worker, and the amount of time it takes to travel throughout the vast distances of the Navajo Nation. Due to this time restraint, reports may not contain the full information as may be required by the court.

The second major problem that the social workers encounter is receiving police reports. In the preparation of a child protective

services case, police reports are needed to support the allegations of a child abuse and child neglect case.

Often, when the affidavit is submitted to the office of the prosecutor, police reports are not available which may cause a delay or prevent a prosecutor from pursuing court action. Police reports are generally not available until after 10 days or more after the incident.

If there is a report available, then the social workers are required to pay a fee.

The third major problem that our social workers encounter is reluctance of witnesses. A social worker may also experience problems in obtaining affidavits from witnesses who are either relatives or neighbors who do not want to get involved in any legal proceedings.

Affidavits from the witnesses are necessary to support a child abuse/child neglect allegation. Without documents and witnesses, cases are considered to have insufficient evidence and may be dismissed. In such cases, a social worker may resort to a subpoena.

The fourth major problem we encounter is the inadequate number of emergency shelter facilities. The Navajo Nation is in dire need of emergency shelter homes. Currently, there is only one on-reservation emergency shelter facility located in St. Michael's, AZ. Other facilities which the Navajo Nation uses are located in Gallup, NM; Farmington, NM; and Flagstaff, AZ.

If a child from a Navajo community requires emergency shelter, the social worker will have to utilize a foster home or go to a shelter home which may require a round trip of perhaps 100 to 300 miles. Considering the medical examination, driving time, and placement, the social worker often spends a full day on one case.

Utilizing off-reservation emergency facilities is the last alternative but also becomes a necessity.

The fifth major problem I want to cite is non-availability of accurate statistics. Statistics on child protective services cases are not readily available from respective programs. Available statistics usually reflect a discrepancy on the accuracy of the figures.

Because of the time constraint, Senator and staff, I will only quickly highlight the written testimony that was submitted by the Navajo Tribal Division of Health and Social Services. The written testimony presents an overview of the Navajo Nation, an overview of the Division of Health and Social Services, and also lists and discusses 20 specific service delivery issues and also appropriate recommendations.

Starting with issue number 1 which addresses appropriations under Public Law 93-638 social services contracts, Senator, we are recommending that the dollars are not adequate, so we are recommending that additional dollars be appropriated.

Issue number 2 has to do with the funding guidelines for 638 contracts which addresses banded monies and unbanded monies which also is discussed and a recommendation provided.

Issue number 3 addresses staffing need under Public Law 93-638 social services contracts. We recommend that additional dollars be appropriated into the line item that supports staff and other administrative activities to provide direct services.

Issue number 4 addresses foster care under Public Law 93-638 social services contracts.

Issue number 5 addresses overtime for staff under Public Law 93-638 social services contracts. Often, we have reports that come in after 5 o'clock or on weekends, but we don't have the resources to pay for overtime for the staff.

Issue number 6 addresses the appropriation for the Indian Child Welfare Act program. We are recommending that the Congress increase the annual appropriation from $8.4 million to $15 million.

Issue number 7 addresses the funding guidelines for the Indian Child Welfare Act grants. We feel that the funding guidelines need to be changed because it does not provide adequate funds to large tribes such as the Navajo Nation.

Issue number 8 addresses discretionary grant programs versus entitlement grant programs. We feel that the Indian Child Welfare Act grant should be changed to entitlement funds rather than treated as discretionary funds.

Issue number 9 addresses the expansion and development of the management information systems which we feel is very much needed, especially to address the non-availability of statistics and then also to use such systems to have the social workers to use that in their daily case management functions.

Issue number 10 addresses the legal advocates. Again, we know that the funds are not enough to support the legal advocates which must file certain legal documents on behalf of the victims.

Issue number 11 addresses the law enforcement officers and agencies. Many times, we know that we need the assistance of law enforcement officers, but they are not available because they are short-staffed.

Issue number 12 addresses the BIA criminal investigation. Because of the various agencies that must be involved in child abuse and child neglect cases, many times, the rules and responsibilities are not very clear, and the cooperation sometimes is not there.

Issue number 13 addresses jurisdiction. Again, many times, there are agencies and organizations becoming involved, and it also has to do with tribal jurisdiction and the jurisdiction of other agencies. It gets to be confused.

Issue number 14——

Senator MCCAIN. Mr. Roanhorse, we have all of this in your written testimony. I don't know if you need to go through them. If you would like to summarize so we can get to the questions and answers, it is not that it is not important, but we have all this before us. Thank you. Go ahead.

Mr. ROANHORSE [continuing]. With that, I just wanted to just highlight these things. I think one of the emerging issues that is coming up is the problem with Satanism that we feel we need to all understand and begin to identify some resources to address this emerging problem.

So, in closing, I just wanted to say again that I thank you for conducting this field hearing, and I and my staff are available to answer any questions that you may have

Thank you very much.

[Prepared statement of Mr. Roanhorse on behalf of the Navajo Nation appears in appendix.]

Senator MCCAIN. Thank you, Mr. Roanhorse.

At this time, would any of your staff like to make any additional comments? Ms. Po Lui or Mr. Begay or Mr. Chee, would you care to make any additional comments? Please go ahead.

Ms. LUI. Thank you, Senator. I want to reiterate our thanks for the opportunity to be here to discuss these serious issues.

As you can tell from the written testimony submitted, the Navajo Nation looks at these problems as very serious human issues that are addressed by the means of governmental systems, bureaucracies, offices that we create. These involve complicated issues of funding, of manpower, of trying to figure out how to stretch the limited resources that we know are there.

So, you have a testimony that goes into matters that, for some, might seem removed from the human issue of abuse that the children and the families suffer. Yet, these matters that we focus on are the way that our system, indeed, the Federal system has to address these issues.

One important part of our testimony refers to, as Mr. Roanhorse expressed, the issue of jurisdiction. This is at the root of many problems with how the governments that must, to use a phrase that a lot of assistance people use, interface on the reservations. We have an interface of the government of the tribe, the Federal Government, and the State, and subsystems to the State will also involve the counties.

That interface is not always there. Sometimes, it doesn't exist. What we have then is three separate governmental systems made up of people who care. Every single person I have ever met in the Federal system who works on the reservation cares. It is similar with State officials and State programs. They care, too. And there is no doubt that the people within the tribal system care.

Somehow, with all those caring people, there is no communication. One of the sad things that we have encountered with regard to the abuse incidents that have been highlighted within the Navajo reservation involving BIA teachers is that the tribe itself was never briefed, never informed as to when the investigation started, what the results of the investigation were, who the people involved were, what the extent of the criminal activity was.

Now, it is my experience—I do not know these incidents, and there is a reason for that. The information wasn't shared with us and hasn't been to this day.

The unfortunate thing—again, I will reemphasize that I have no doubt that the people who are involved on the Federal side care deeply, but for some reason, the connection and the acknowledgement of the tribal system just has not been there.

So, the tribal system, the agency that Mr. Roanhorse heads that would handle most directly the fallout from sexual abuse—and that fallout is how the children will deal with it, how the families will deal with it, how the community will deal with it—is not involved and not really told. Their most reliable source of information, unfortunately, is the newspaper.

This is an issue that through the listing of the issues and the recommendations we have in there underlies the many issues that we identify. Part of the written testimony is a reference to the desire

of the Navajo Nation for increased direct funding, direct relationship to services that the Federal system and State systems have.

Mr. Roanhorse's agency already has extensive relationships with the State. In fact, one of the noteworthy activities recently was the signing of the intergovernmental agreement between the Navajo Nation and the State of Arizona at Governor Mofford's office just recently, and that was a real milestone. That is an agreement that deals with child welfare issues. Child welfare issues frequently involve child abuse, child sexual abuse.

It is through this agreement that, interestingly enough, Senator, that is an example of the successful interface of tribal and State, including county, governments, because the most active entities on the State side were Mr. Idi Brown's Division of Economic Security and the Coconino County Administration for Children, Youth and Families working very closely with Mr. Roanhorse's staff to develop that agreement.

That is the kind of thing we need more of, particularly now, as we see it, with our Federal counterparts, the people that we work with and see every day on the reservation from IHS and BIA.

Senator McCain. Thank you.

Mr. Begay, do you have any comments?

Mr. Begay. Senator, I would just like to make one small comment. Working with the clients at the grass roots level in direct services, we come in direct contact with clients that do experience abuse in different forms, one of which in recent days has been the outburst of sexual abuse on the Navajo reservation, especially within the Western Navajo Agency. We have seen this in various forms in young children all the way to also adults that have experienced abuse in their childhood days. They are, I guess, feeling the impact in their adulthood days.

One of the things that I realize through working with these clients is that these traumatic and detrimental impacts do impact the capability of these individuals, their social, emotional, physical, psychological, and spiritual capabilities of individuals that have to go through these abuses. But when we get down to treating the clients with the services that are needed to provide treatments that are needed to provide therapy to each capability, they are usually not readily available on the reservation.

For instance, within the Western Navajo Agency, we usually have only one psychiatrist available to provide counseling to clients who are experiencing a crisis. We don't have a psychologist available within that agency.

We do have a traveling psychiatry team that does travel out from Gallup at IHS from time to time, but they are not consistent. Other than that, the only psychologists that we have are psychologists within the schools, and their focus is mainly in the education area, and they don't do evaluations, the kind that we need anyway.

As far as behavioral therapists, we don't have any such thing within the agency. So, we are absolutely in need of professionals who can help us deal with the ill effects of abuse on the reservation.

Thank you.

Senator McCain. Thank you.

Mr. Chee, do you have any comments that you would like to make?

Mr. CHEE. Thank you, Senator.

I have just a brief comment on two things. Number one, I would like to respond to the question that you asked of the other people who were here earlier as to what the most effective is that has been used or seen on the reservation. My response to that would be there is really no 100 percent effective treatment that you can come up with for victims and their families.

I think testimony has been given by the people from Hopi that the emotional and psychological scars will be there for the rest of their lives. However, I do believe that one of the most effective treatments would be prevention, and prevention means dollars, and I think that is where the emphasis is put as far as the testimony that was given by Mr. Roanhorse.

In every specific area that he mentioned, dollars for these programs have to be there. In order to have a good and effective prevention program, you have to have dollars and a good program, and this is something I would like to bring out.

Number two, I would like to comment as a school board member. I am a member of a school board for one of the larger schools on the Navajo Reservation. One of the problems that I have seen on the reservation is the lack of leadership within the BIA school, lack of administrative leadership.

To make the point, let me give you an example. At this particular school where I am a member of the school board—and this happened right after the report came out of Hopi, out of Greasewood, and out of Kayenta—where a large number of school personnel came to me and brought to my attention a thing that they suspected is going on within the school. However, it was very hard to put your hands on any kind of direct evidence, so I just went to the school principal for him to look into this situation.

The problem was this. The Bureau has a residential program for children with special needs, like maybe they might need some guidance counseling, especially those within the residential setting in the dormitory. Well, the school has a program and has funding for an intensive residential guidance program, but the program was not implemented on the campus.

The problem was that the counselor who was hired for this program could not find time to work with these kids. So, I went to the principal, I went to the teachers, I went to the dormitory managers, and I asked why this program does not have a schedule.

Number one was that the regular classroom teacher will not allow the children to be released during the day. In the evening, the dormitory staff will not allow the children to be released for this special residential program. So, the only time and place that was available to this counselor was in the evening and at his home.

So, he would take five to seven or eight children to his home in the evening, and they would watch television while he would take one or two students into his bedroom, supposedly for private sessions.

So, I went to the principal and said you better put the program with a schedule in place during the daytime or get rid of the person. Well, the principal didn't do that. He just fired the person,

but that does not solve the problem, and here the problem was that the school has the policy, they have the standard, they have the funding, but they just lack planning and organizing and implementation of their standards.

My point is lack of leadership within the BIA school. They don't have social workers and other professional personnel for whom they have funding. Their priorities are not in place, and I think their priorities are also misplaced.

That is all for my comment, Senator. Thank you.

Senator McCAIN. Thank you. I thank all of you for your very important testimony.

Mr. Roanhorse, I want to assure you that we will take back all of these recommendations that you have made and try to get as much of this additional funding as we can, recognizing—and I am sure you will agree—that funding is only part of the answer, but it is a critical part of the answer as well.

Dr. Wasserman, if I understood correctly, you think your program needs about $500,000 on an annual basis. Is that right?

Ms. WASSERMAN. That is correct.

Senator McCAIN. And you will send to us and the staff the proposals you have made? I would appreciate it if you would.

Ms. WASSERMAN. Certainly.

Senator McCAIN. Ms. Po Lui, what have been the effects of the Kayenta and Greasewood cases as far as any improvement that you have seen regarding jurisdictional problems?

Ms. LUI. Senator, I am not aware of any improvements. To my knowledge, the situation is the status quo. However, I am also informed that the tribes' police services are looking at 638-ing the criminal investigation functions of the BIA, and that may be a move in the right direction.

However, there is still the serious problem of coordination with the U.S. Attorney's office. As you may know, there is concurrent jurisdiction between the tribe and the Federal system over any crimes, even the major crimes. However, there is a perception that if it is a major crime, somehow the tribe must keep its hands off.

This is a very short-sighted view that ignores the capability of the tribe to address the issue most immediately. That also ignores the fact that the child sexual abuse cases have two facets. One is the criminal aspect. The other is the civil aspect of the needs of the victim and the families.

Too often, those two facets are ignored and the victim becomes a double victim.

Senator McCAIN. In your view—and perhaps Mr. Roanhorse can comment on this—how widespread is the problem of sexual abuse on the Navajo Reservation, Ms. Po Lui?

Ms. LUI. I think Mr. Roanhorse or Mr. Begay or Mr. Chee would probably best address that.

Mr. ROANHORSE. Senator, according to the statistics for last year, statistics show that the Division of Social Welfare has handled over 7,000 child protective services of which over 90 percent are those involving child abuse and child neglect cases. Then, it is pretty hard to determine the percentages for sexual abuse. All we know is that there is a substantial amount of figures.

Mr. BEGAY. Within the Western Navajo Agency, we have a number of cases. We have four suboffices, one at Lupe, one at Kaibito, Tuba City, and Kayenta. I think within each suboffice, we have had a pretty high number of cases that were reported within the last year.

The Kaibito suboffice, for example, just from one school, we had about 13 cases from one of the Federal boarding schools up at Shonto. Then up here in the Lupe area, Rocky Ridge Boarding School—we had another outbreak there where about another 4 or 5 cases were reported. And Kayenta involved about 25 students.

Aside from that, we have other cases where it involves cases that just involve family matters and do not involve teachers.

Senator MCCAIN. Thank you.

I just have one final question for the panel, and that is to Ms. Po Lui and Dr. Wasserman. Starting with you, Dr. Wasserman, what is your opinion of the BIA/IHS child protection team initiatives, if you are familiar with them?

Ms. WASSERMAN. I am a participant on the child protective team on Hopi, and I think that it is a very positive initiative as far as case management and coordination of services as have been mentioned. However, again, we are left with the problem. Reports are made, they are investigated, perhaps they are substantiated on a criminal level, and that goes ahead and takes place on that road, but what happens to the child?

If you don't have the therapists available—and I do want to stress that child sexual abuse treatment is a very specialized area. Treatment of victims and treatment of family members requires specialized training. Basically, on the reservation right now, I am it.

So, you don't have the resources for the treatment once these cases are identified. Then, you also have the cases where you can't have any proof to the legal level that you need, yet children have exhibited symptoms or need some kind of intervention. Again, they may be followed by the children's protection team, and we may keep an eye on them, and we may know that they need services, but how do you provide the services once those children have been identified or once situations have been identified that need further monitoring and looking into? I think that becomes the real problem.

Senator MCCAIN. Ms. Po Lui.

Ms. LUI. With regard to the child protection team initiative, there was a one-time provision of about $50,000 which the BIA made available within Navajo. The provision of those funds, however, was somewhat of a mystery, because the decision of how the money was to be awarded was unilaterally made by the BIA and ended up in the Office of Navajo Women. They, to their credit, did do a good job of getting it off the ground where there are child protection teams.

However, the status of that right now is up in the air. There is no more funding, but there are teams in place, and there is a desire in the local agencies where those teams are to continue.

It is our belief that that is a good direction in which to move. However, consultation and coordination should certainly come from or be done with the Division of Health and Social Services,

the agency probably most qualified to identify how those teams are to work and whether or not they should work.

I do want to call the Senator's attention to the last page of the written testimony which includes what are called "sample cases." I would call your attention to sample case number 2. That is a very recent incident that happened. These are real incidents. Identities, of course, are not provided to protect the individuals involved.

This is an example of the problem where what happened was apparently sexual molestation by the child's father was reported to the appropriate officials. Once reported, as far as she knew, he was picked up. He was gone for 3 months.

She lives out in a remote area. After 3 months, he shows up on her doorstep. She does not live next door to a police station or down the road from a Social Services office where she might seek help, and what he tells her is well, I wasn't really in prison. I was in the hospital.

She comes all the way to Window Rock which involves a significant—usually when people come to Window Rock from outside, they have to pay extra for transportation, and she managed it. She couldn't get any information on the status of that report she had made.

At last, she came to Mr. Roanhorse's agency, talked to one of the social workers there, and she set about making phone calls to find out what the status was. She couldn't get information from the local investigator's office. She was told that it had been referred to the U.S. Attorney's office, but they wouldn't tell her which U.S. Attorney. They wouldn't even tell her the telephone number to Phoenix. She found that out for herself and called the U.S. Attorney's office and was informed that they had no knowledge of such a case and that it had not yet been referred to them.

Senator MCCAIN. When did this case come to your attention?

Ms. LUI. When the social worker called me to ask me, it was last week.

Senator MCCAIN. Did you call the U.S. Attorney's office?

Ms. LUI. The social worker called the U.S. Attorney's office.

Senator MCCAIN. Did you?

Ms. LUI. No; I did not.

Senator MCCAIN. Why not?

Ms. LUI. I have not had a chance yet. I have been on travel quite a bit, but I do intend to talk with them.

Senator MCCAIN. I would hope that you would get off travel as soon as possible and that either yourself or one of your assistants will liaison with them, because this is obviously a very serious problem.

Ms. LUI. Absolutely.

Senator MCCAIN. And deserves the highest attention. If they can't return your calls, I hope you call me, because I think maybe we can get them to return the calls, and we will have Mr. McNamee here in a couple of panels and will give him an opportunity to respond.

Ms. LUI. Thank you.

Senator MCCAIN. Thank you. I thank all the members of this panel for their testimony.

We will take a brief 5-minute break before the next panel so that we can all take a quick stretch. We will proceed in 5 minutes.

[Recess taken.]

Senator McCAIN. Our next panel consists of Dr. George Brenneman, Chief of Maternal and Child Health of the Indian Health Service. He will be accompanied by Dr. George McCoy, Chief of the Mental Health Branch of the Phoenix Area Indian Health Service; Ms. Dorothy Meyers of the Phoenix Indian Health Service; and Ms. Susan Oliver, Chief of Social Services of Whiteriver Service Unit of the Indian Health Service.

Also, we would like to have Mr. Wilson Barber who is the Area Director of the Phoenix Area Office of the BIA. He will be accompanied by Mr. Steve Lacy and Mr. Theodore Quasula.

All right, Dr. Brenneman, we would like to lead off with your testimony. As I mentioned to the other witnesses, if you would care to summarize in whatever way you feel could expedite the procedures, that would be helpful. At the same time, we consider your testimony and that of the other witnesses very important. So, please know that we are not trying to rush you in any way. Thank you.

Dr. Brenneman.

STATEMENT OF DR. GEORGE BRENNEMAN, CHIEF OF MATERNAL AND CHILD HEALTH, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY DR. GEORGE McCOY, CHIEF, MENTAL HEALTH BRANCH, PHOENIX AREA INDIAN HEALTH SERVICE; DOROTHY MEYERS, CNM, MCH CONSULTANT, PHOENIX AREA INDIAN HEALTH SERVICE; AND SUSAN OLIVER, CHIEF, SOCIAL SERVICES, WHITERIVER SERVICE UNIT, INDIAN HEALTH SERVICE

Dr. BRENNEMAN. Thank you, Mr. Chairman and members of the Select Committee on Indian Affairs and staff.

We appreciate this opportunity to testify on issues of child abuse and neglect and child sexual abuse. I am a pediatrician and Chief of Maternal and Child Health for the Indian Health Service. The other folks on the panel have been introduced: Dr. George McCoy, Chief, Mental Health Branch and Dorothy Meyers, a certified nurse midwife and maternal and child health consultant for the Phoenix Area, and Susan Oliver, who has a Masters in Social Work and is Chief of the Social Services.

We are pleased to be able to represent the Indian Health Service regarding the very important and distressing problems of child abuse and neglect and child sexual abuse. I will try to highlight our written testimony to stay within the time of 10 minutes, because I think discussion is very important.

The Indian Health Service does recognize that the well being of the American Indian and Alaska Native community is measured by the health of its children, and the future health of the American Indian and the Alaska Native community is secure when the children are healthy. The Indian Health Service provides health services, both direct and preventive, to these people through a regionalized health care system.

I want to now share a few specifics with you regarding child abuse and neglect and the Indian Health Service.

Child abuse and neglect are priority targets in one of the 1989 Indian Health Service emphasis objectives. This objective gives the Indian Health Service focus and, impetus in providing specific program activities in mental health, social services, alcohol and substance abuse, and maternal and child health in response to child abuse and neglect in Indian country.

The Indian Health Service's professional services manual establishes, policies on child abuse and neglect and child sexual abuse. These policies are currently under review and modification to bring them into clearer compliance with current legislation, the BIA/IHS Interagency Memorandum of Agreement, alluded to already in testimony, and with generally accepted patient care standards.

The Indian Health Service's mental health program branch is developing, in collaboration with Indian Health Service and tribal health care providers, proposed policies on domestic violence. Child abuse and neglect are frequently the results of family violence, usually associated with the vicious cycle of alcoholism, depression, frustration, and unemployment, among other factors.

The Indian Health Service is cooperating with the BIA in addressing Indian child abuse and neglect through a memorandum of agreement, in effect since April 1987. This memorandum calls for interagency, multi-disciplinary child protection teams at Indian Health Service and BIA area levels as well as service unit and agency levels. At the national level, the BIA/IHS oversight committee on child protection, is co-chaired by BIA and IHS representatives, meet quarterly to review field reports and to discuss solutions for the host of issues that arise in establishing effective child protection teams in the field. This committee has representation from the IHS, BIA, and the Department of Interior policy, budget and administration and the solicitor's offices.

Beginning in fiscal year 1989, this committee will conduct area reviews of child protection team activities.

I believe this committee is an important focus for BIA and IHS to consolidate their interaction on issues of child abuse and neglect in Indian country. Its next meeting will be in Phoenix in January. Also, in February, the committee is holding a special meeting in Washington, DC at which time child protection workers, invited from the field will discuss ways to overcome barriers to reducing child abuse and neglect in Indian country.

The Indian Health Service is also proposing two studies related to Indian child abuse and neglect. One of these would be to examine the Indian Health Service functions at all organizational levels in the management of child abuse and neglect and child sexual abuse. The second proposal would be to examine the long-term effects of child abuse and neglect in Indian communities. This is very important in developing education and intervention programs.

We believe that child abuse and neglect are important health problems in Indian country. Based on our most recent statistical reports, gathered by the oversight committee, we are aware of 5,244 Indian child protection referrals between October 1, 1987 and July 28, 1988. About two-thirds of these referrals were suspected neglect, and 10 percent were suspected sexual abuse.

Data from the Billings area, for example, is especially meaningful in terms of statistical validity because of commendable and cooperative work being done there by the BIA and IHS workers through an active area child protection team. During the same period of time, Billings reported 995 child protection referrals and a proportionate breakdown of abuse, neglect, and child sexual abuse was noted. Fifty-four percent of the reports were substantiated, giving a rate in the Billings area of 126 cases of child abuse and neglect per 1,000 children under 15 years of age per year.

The Phoenix area child protection team reviewed 457 cases of suspected child abuse and neglect in fiscal year 1988. In the Phoenix area, there are currently 13 child protection teams. The Gila River Indian community responded to the problem of child abuse by establishing a program called the "Beginning Alcohol and Addiction Basic Education Studies," which goes under the acronym BABES. BABES is a program that is designed to offer preventive alcohol and substance abuse education and to teach positive living skills to children of all ages.

The treatment of victims of child abuse and neglect is within the scope of the mission and responsibility of the Indian Health Service. Treatment is complex, requiring local multi-disciplinary teams whose members work in concert. Programs and personnel devoted to this are under the direction of the Mental Health Branch.

However, the Indian Health Service Mental Health Branch program budget only supports about two direct core staff per service unit. Very few are trained to assist children caught in these complex issues.

The Indian Health Service Mental Health Branch is implementing a national team of three members to provide consultation in the prevention of family violence including child abuse and neglect for tribes and service units. Additional efforts in the treatment of alcohol and substance abuse to reduce family violence are under the direction of the Alcohol and Substance Abuse Branch of the Indian Health Service.

There are several barriers that impede successful and effective treatment of Indian victims of child abuse and neglect, and I would like to mention a few of these. I want to also emphasize that these barriers are not necessarily unique to Indian country.

One; without community awareness and support, effective treatment cannot be provided. There is considerable evidence of denial of child abuse and neglect in Indian communities, as is true of communities in general. Previous testimony shows that when this denial breaks down, the need for treatment becomes quite apparent, and deficiencies in treatment are obvious.

A portion of the correction, therefore, lies within the life style of the community, outside the ability of the Indian Health Service to successfully intervene.

A second barrier is that the family of a child victim is often unwilling to participate in treatment,. This is especially true if a family member is a perpetrator, but can be true when the perpetrator is not a family member.

A third point is that effective treatment cannot be undertaken when investigations of a suspected case and judicial review are delayed. On the one hand, inappropriate treatment may be initiated

without specific documented information. On the other hand, in some cases, Indian Health Service providers have been advised that treatment efforts might interfere with the investigation process. One of the functions, however, of the local child protection team would be to attempt to resolve some of these conflicts.

For victims of child abuse and neglect to receive effective treatment, highly trained and experienced health professionals must be available. Most important in Indian country, these health professionals must be sensitive culturally to the communities they assist.

While the Indian Health Service has a dedicated core of professionals, finding and recruiting these specialized professionals is often very difficult. There are presently two situations, particularly, that strain Indian Health Service resources to do so.

First of all, it is difficult to identify available personnel for these crisis situations where a large number of children in a whole community are involved. Second, where emergency funds for mental health and other services have been made available from other resources and these funds are then exhausted, a treatment vacuum results and is difficult to fill by on-going health programs.

Regardless of these barriers, the Indian Health Service is committed to seek vigorously creative ways in which to meet the treatment needs of Indian victims of child abuse and neglect.

In conclusion, I would like to say that the Indian Health Service recognizes the important health problem of child abuse and neglect affecting Indian children. It accepts responsibility to work diligently and creatively to meet the needs of these children, and recognizes that to effectively intervene in this important problem, needs to cooperate with other Federal, State, and tribal organizations. No one organizational entity or profession is able to prevent and treat this problem by itself. Above all, the best interests of the children are the priority.

Thank you very much.

[Prepared statement of Dr. Brenneman appears in appendix.]

Senator McCain. Dr. Brenneman, I will depart from the normal procedure here just for a second, because I would like to comment on your last statement. You said that the professional help is essential, and I agree. You also said that it must be available and that finding and recruiting these individuals is of crucial importance, and I couldn't agree more.

However, frankly, if you found and recruited those professionals, do you have the funding to pay for them right now?

Dr. Brenneman. That is a problem. There are occasional vacancies in which we do have difficulty finding professionals. I will refer the question to Dr. McCoy.

Senator McCain. My question, Dr. McCoy, is if you could find and recruit these professionals that are absolutely essential at this time, do you have the funding to pay them?

Dr. McCoy. I do not at this time, Senator. I have all the money that I have available for the program out, and it is funded at a number of dollars that lets me have approximately one-third of the number of professional people that would be required to meet a minimum professional provider patient ratio recommendation or standard.

Senator MCCAIN. What I need, Dr. McCoy, is the amount of money necessary that would be required as a minimum for you to provide this kind of professional help. I am not in disagreement that finding and recruiting is a problem, but I don't even know why you bother to go out and find and recruit if you can't pay professionals, and it kind of begs the question here to some degree.

I am not blaming you. I would blame the Congress and the Administration far more than you, but I think it is important that you and the BIA make it very clear in hearings like these—and unequivocally—that one of the major hurdles that you face is lack of funding. That is why we have these hearings—so we can hear directly from you on this issue.

Dr. MCCOY. As a minimum, I would need a doubling of my present budget. My present budget is $1.256 million.

Senator MCCAIN. Thank you, Doctor. Thank you very much.

Thank you, Dr. Brenneman.

Ms. Meyers or Ms. Oliver, would you care to add anything before we go to the next witness?

Ms. MEYERS. I would leave my time for the BIA and then be ready to answer questions if you have any.

Senator MCCAIN. OK. Ms. Oliver.

Ms. OLIVER. The same.

Senator MCCAIN. OK, thank you.

Then, we will go right to Mr. Wilson Barber who is the Area Director of the Phoenix Area Office of the BIA of the Department of the Interior.

Welcome, Mr. Barber. We are ready to listen to your comments. Thank you.

STATEMENT OF WILSON BARBER, AREA DIRECTOR, PHOENIX AREA OFFICE, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY STEVE LACY, SOCIAL SERVICE WORKER, PHOENIX AREA OFFICE, BIA; AND THEODORE QUASULA, SUPERVISORY CRIMINAL INVESTIGATOR, PHOENIX AREA OFFICE, BIA

Mr. BARBER. Thank you, Senator McCain and members of the staff.

I am here today to discuss the issue of child abuse and neglect on Indian reservations and to give you an overview of the BIA's efforts we have ongoing at the present time. We certainly share that child abuse and neglect is a growing concern within Indian country and is beginning to receive national attention.

The Assistant Secretary of Indian Affairs and the Director of the Indian Health Service identify child abuse and neglect as a multidimensional problem affecting the child, his family, and the community. Prevention of child abuse and neglect is to be emphasized.

Incidents such as those occurring on the Hopi, Fort Peck, and Crow Creek Reservations and at the Greasewood School on the Navajo Reservation created an urgent need to address problems of child abuse and neglect. Several child protection initiatives have been established by the Bureau of Indian Affairs and the Indian Health Service and the Department of Health and Human Serv-

ices. In an attempt to address this ongoing concern, the Bureau has put in place a number of initiatives.

The child protection teams and the efforts both at the national and the local areas have been adequately addressed by Indian Health Service testimony, so I won't belabor it, Senator, with echoing those again. I will continue in that in an effort to create an awareness among various child protection providers, the BIA is sponsoring a national training conference entitled "Promoting Child Protection in Indian Country" and held in Green Bay, Wisconsin this past summer in June 1988.

The diversity and level of expertise the conference presenters and speakers had to offer and the experiences and interactions of the multi-disciplinary teams produced a successful conference.

In order to further promote the protection of Indian children, the Assistant Secretary of Indian Affairs has concluded that the sensitivity level of the Bureau employees who have regular contact with children must be upgraded to non-critical sensitive from non-sensitive. As a result, the Office of Personnel Management will give a higher priority to conducting background checks of these employees.

Furthermore, the Division of Personnel Management also has developed additional procedures for more extensive background checks on the employees, primarily education and social service personnel.

With regard to law enforcement initiatives, 6 of the 12 criminal investigators that comprise the special investigation unit located in Albuquerque, New Mexico will devote full time to investigating child abuse and sexual molestation cases. Also, the Bureau of Indian Affairs has met with the FBI to encourage them to identify child abuse cases as a high priority for investigations.

While we are working to develop BIA law enforcement expertise in such investigations, the FBI is an important part of the investigations. In some areas such as here in Phoenix, the FBI has established these investigations as a priority.

However, other areas have their own limits on staffing and priorities. Consequently, a response time to begin FBI investigations may be anywhere from 30 to 90 days. This can cause severe problems in processing the cases through the courts. More importantly, a slow response jeopardizes the safety and treatment of child victims.

In addition to a juvenile code which the Bureau was mandated by Congress to develop, we discovered that there are other areas of child protection that needed to be addressed and contracted with the National Indian Justice Center to develop a child/family protection model code which has been sent to tribal court judges throughout the country for their comment and review. The model code covers civil child abuse and neglect, child custody, foster care licensing, guardianship, termination of parental rights, and adoption proceedings.

Furthermore, extensive training has been provided to court, law enforcement, and social services personnel to upgrade the skills needed to handle child abuse and neglect cases.

Finally, the Division of Social Services received an additional $1.4 million in fiscal year 1989 for child protection staffing at the

93-286 O - 89 - 2

tribe agency level. However, although we have additional funding for child protection workers, because of the isolation, the BIA has critical problems in drawing experienced, educated social workers to reservations.

In conclusion, the Bureau will continue its efforts to effectively address the child abuse and neglect problems in Indian country. However, until such time as Indian governments and its community members accept responsibility for dealing with child abuse and neglect problems, the situation continues to remain serious.

Senator, this concludes my prepared statement, and I will be happy to answer any questions you may have.

Thank you.

[Prepared statement of Mr. Barber appears in appendix.]

Senator McCAIN. Thank you, Mr. Barber.

Mr. Lacy or Mr. Quasula, would you care to make any comments at this time?

Mr. LACY. Of that $1.4 million, $99,000 came to Arizona tribes in the Phoenix area to get additional staff. That was at Hopi, Fort Yuma with the Cocopah and Crishon Tribes and at Colorado River Tribes.

Senator McCAIN. How many staff?

Mr. LACY. Three staff.

Senator McCAIN. Would you care to make any additional comments?

Mr. QUASULA. Just one minor but important one, I believe. Mr. Barber's prepared statement reflects that at some locations in the BIA, there may be a problem with FBI response time as priorities. I would like to point out that in the Phoenix area which includes Arizona, Nevada, and Utah, excluding the Navajo, we don't have that problem. I think our working relationship between the BIA, the tribes, and the FBI as well as the U.S. Attorney's Office in those three States is excellent.

Senator McCAIN. Thank you.

Mr. Barber, whose responsibility is it to screen applicants to be teachers on Indian reservations?

Mr. BARBER. Senator, you must understand that there are several educational systems on Indian reservations, the primary one being the Bureau of Indian Affairs, and the responsibility, of course, is the BIA's personnel section together with the Office of Personnel Management. Until recently, we have contacted the OPM central office and its field offices, and we certainly are making an effort to conduct extensive background reviews for Bureau employees.

On 638 contracted school systems, the school boards and the individual tribal systems are responsible for conducting the hiring and selection of personnel.

Certainly, the Bureau of Indian Affairs has no administrative authority with the public school systems or private educational systems that might be around.

Senator McCAIN. Only the BIA schools?

Mr. BARBER. Only the BIA schools. Yes, sir.

Senator McCAIN. And have you changed your screening procedures in recent months?

Mr. BARBER. In most recent months, yes. We have indicated that any vacancy announcements will indicate that any possible applicants must clear a security and clearance check and, certainly, we are writing these into the 638 contract provisions so that the tribal entities who have contract schools hopefully will adhere to such.

Senator MCCAIN. Mr. Barber, in your statement, you said, "Until such time that tribal governments and its community members accept responsibility for dealing with child abuse and neglect problems, the situation will continue to remain serious."

What does a tribe have to do to accept responsibility?

Mr. BARBER. Senator, with that in mind, certainly what is meant is that the responsibility for this problem does not rest solely with tribal governments. It rests with society at large, and the responsibility is a shared responsibility by the various Federal departments, the Bureau of Indian Affairs, Indian Health Service, State and local governments, and certainly a lot of the responsibilities have to be brought forward and recognized by individual family members of various tribes who have become victims, and this has to be dealt with in an open forum.

I just recently heard the testimony given by tribal leaders and family members this morning, and I think it is beginning to be recognized as such.

Senator MCCAIN. What level of funding is available to these tribes who choose to, in your words, "accept responsibility," Mr. Barber?

Mr. BARBER. The level of funding historically with the Bureau of Indian Affairs has certainly been lacking in large amounts. I understand that approximately $100 million is appropriated annually to the Bureau of Indian Affairs for social services programs in its various entities. However, there has been no major focus or emphasis on that money going to child neglect and sexual abuse until most recently.

The $1.4 million, of course, was only a drop in the bucket, in my estimation. I recall a national need of some $8 to $10 million being identified and submitted during the past two budget hearings.

Also, $100 million is appropriated annually for social services programs in the Bureau of Indian Affairs, and about one-half of that goes to the Navajo area and the Phoenix area. So, of 300-plus tribal entities throughout the nation, my feeling is that the Bureau of Indian Affairs' funding process is woefully lacking in addressing these problems.

Senator MCCAIN. Mr. Lacy, in your view, is the situation of neglect and abuse on Indian reservations and in Indian schools getting worse, or are the problems just becoming apparent?

Mr. LACY. I think there has been more attention. As a personal observation, I question that it is four times more severe on Indian reservations than in society in general, because I think that does a disservice to Indian families and communities to imply that they don't take good care of their children.

I think the problems——

Senator MCCAIN. I am not sure that it implies that, Mr. Lacy. I think it might imply that if you have teachers who are able to conduct these kinds of activities for as long as 9 years, that makes su-

pervision dramatically different from that which exists off Indian reservations. Would you accept that argument?

Mr. LACY. I would say there is one-fourth the resources as you have in off-reservation communities, but I think in terms of Indian families taking care of their children and the problem of sexual abuse and child abuse, I don't think Indian people are worse parents.

The problem with BIA teachers—I am not sure how that came about.

Senator MCCAIN. Dr. McCoy, you have been in the business for 30 years. Isn't that correct?

Dr. MCCOY. Yes.

Senator MCCAIN. What is your opinion about this situation? Do you think it is getting worse or better, and do you think that the estimate of its being four times worse than in non-Indian communities is accurate?

Dr. MCCOY. I would agree with Mr. Lacy—and we work very carefully with the BIA on these things—that I don't believe that four times the incidents in the non-Indian population would hold. That would mean almost a universal sexual abuse of all persons in Native American communities, and I don't agree with that.

I think that we are just beginning to be able to admit publicly and openly to this problem. I know some of the very early cases that I had when I first began 30 years ago were of this nature, and it is not a new problem in that sense. It is one that has been around for a long time.

I think there are a number of things—the denial, the attempt to protect and shield people, the fact that children themselves are of a very unclear status in our society and are totally dependent upon adults and we don't ordinarily take their word about things are all factors involved.

The resources to deal with the problem have changed drastically over the time that I have been involved. At first, there was very little—maybe the court system and maybe as a psychologist or a psychiatrist or a social worker. It usually resulted in placement of the child.

Senator MCCAIN. Dr. McCoy, it is my view that the situation is worse on Indian reservations, and I don't view that Indian parents are worse parents. In fact, my experience has been such that I could make an argument that Indian parents are better parents than perhaps the society as a whole.

Dr. MCCOY. Yes.

Senator MCCAIN. My view is that the difference lies in enforcement, screening, counseling, prevention, training, education, and these areas which makes the situation worse than in non-Indian communities.

Dr. MCCOY. Yes; right.

Senator MCCAIN. Including apprehension of people who are felons or pedophiles. I would also add to that, if you would agree—and Mr. McNamee and I will hopefully discuss it—that the penalties are not nearly severe enough for these kinds of crimes, given the prevailing view that no pedophile can ever be totally rehabilitated. There has been no case on record to my knowledge.

Do you agree with that?

Dr. McCoy. I agree completely with everything you have said about the fact that it is a more severe problem because of the lack of resources to deal with it that prevails in all the Native American communities and also the fact that the legal handling and procedures for punishment of these people and the fact that as you said, we have as yet no successful way of changing the behavior of the perpetrators.

Senator McCain. I have about 50 questions that my staff is pushing off on me to ask you, but let me just mention a couple.

Dr. Brenneman, you mentioned a couple of studies that are being conducted. We would like to have copies of those studies as soon as they are completed. I think it might be helpful in shaping whatever legislation we might eventually develop.

Your testimony mentions that the following groups are involved to some degree in child abuse issues for the IHS: the IHS Mental Health Branch, the BIA/IHS interagency group, consultation with the Subcommittee of the American Agency of Pediatrics, interagency multi-disciplinary child protection teams at both the BIA and IHS area, the BIA/IHS Oversight Committee on Child Protection, and a national team of three members to provide technical assistance.

Given the involvement of all these various groups, why does the IHS believe, as you state on page 4 of your written testimony, that it is necessary to establish another interagency advisory group after completing these two studies?

Dr. Brenneman. I see what you mean. Let me emphasize those two studies are at this point as far as IHS is concerned, proposals. They have not been approved by the Department yet, but we certainly hope they will be approved and that we can proceed.

What I meant to imply there is that within the National Oversight Committee, we chose three or four persons to advise specifically to the conduct of those studies.

Senator McCain. I see. I would like to say to you, Doctor, and also to Mr. Barber that in your testimony it doesn't make or barely makes mention of working with tribal social services, courts, and the law enforcement agencies, and I hope that we will increase our efforts in cooperation in working more closely with those different agencies.

One of the lessons I think we are getting from this hearing is that there is a lack of coordination, and I think part of that is due to geography and part of it is due to the endemic problems of bureaucracies, but I think we are going to have to make a much larger effort if we are going to address this problem successfully.

I hope you would agree with that.

With that, I will submit some questions to you for the record, if you are agreeable, so that we can have a written record of your responses to some other important questions I have for you.

I would like to emphasize to you that I understand clearly that funding is a critical issue here, and that is not your responsibility. It is mine and this Administration's responsibility.

At the same time, I believe it is your responsibility, as I believe you have in this hearing, to come forward with candid assessments of the requirements for additional funding, recognizing that fund-

ing is not the only answer, but it certainly is the most crucial aspect of addressing this problem.

And when we are talking about the price of children, I don't know how you put a price tag on that.

So, thank you very much for your testimony and thank you for being here today.

Next, we will hear from Mr. Stephen McNamee who is the United States Attorney for the District of Arizona; Mr. Eddie Brown who is the Director of the Arizona Department of Economic Security, and Mr. John Lewis who is the Executive Director of the Intertribal Council of Arizona.

Dr. Brown will be accompanied by Gloria Floracamp who is an Indian child welfare specialist.

I note, as I am sure most of the people here are aware, that Dr. Eddie Brown is a member of the Pascua Yaqui Tribe and is the first Native American to head a cabinet department in the State of Arizona for which we are all proud, and we have extended many times our congratulations and condolences to him for having that very important and difficult responsibility.

Mr. McNamee, before we begin your testimony, I am appreciative of the efforts that you and your office have made, particularly in trying to resolve the issues which I am sure you are going to talk about—as far as criminal jurisdiction is concerned on Indian reservations.

I believe it is one of the major obstacles to the successful prosecutions of the perpetrators of these outrageous acts on the children on Indian reservations in this State. I believe you had done a dedicated job, and I look forward not only to hearing your testimony today but to continued coordination with you in your efforts.

Mr. McNamee.

STATEMENT OF STEPHEN McNAMEE, U.S. ATTORNEY, DISTRICT OF ARIZONA, U.S. DEPARTMENT OF JUSTICE

Mr. McNAMEE. Thank you, Senator.

I appreciate the opportunity to be here like all the other people who participated on the panels.

I would like to make a preparatory statement that I know you are aware that many victims prosecuted by our office have filed suit against the United States under the Federal Tort Claims Act, and those cases are currently pending in Phoenix, Arizona. Any comments made by me today are my own viewpoints as a prosecutor exercising my prosecutorial function under the statutes of the United States, including the Victim Witness Act. My remarks are not intended to be comments or admissions about the legal duties or responsibilities of any agencies of the United States in this matter.

As we have commented before, sexual abuse has really come to the forefront not only in the United States but certainly on the reservations. One of the major responsibilities of the U.S. Attorney's office is to prosecute Federal crimes under the Major Federal Crimes Act.

As you know, there are 20 separate Indian reservations in Arizona. That gives us sort of a preeminent position.

Since 1986, over 100 cases of child sexual abuse involving an estimated 400 to 500 child victims have been submitted to our office for prosecution. Many of these cases involve child sexual abuse within the family.

We have also devoted special attention to the resources to prosecuting what I call serial molestations by teachers involving these cases.

There has been enough discussion about the *Boone* and *Todd* cases, so I will not go back into those except to say that we successfully prosecuted both of those cases. Mr. Boone pled guilty to two charges of aggravated sexual abuse among children and was sentenced to life imprisonment. The children were spared the trauma of having to testify at a public trial by his plea of guilty.

Todd, on the other hand, went to trial and, after a lengthy jury trial, was sentenced to 99 years in a Federal prison on charges involving his acts.

As you are well aware, these are not isolated instances. There have been other teachers that we have prosecuted, and the sentences have ranged from 15 years to 32 years. There are two other similar cases awaiting trial while another has recently pled guilty and is facing a maximum period of incarceration of 45 years imprisonment.

Now, the disparagement between what those sentences could be and are will be the issue I am going to discuss next, and that is the fluctuating criminal jurisdiction within Indian country, particularly as it relates to the prosecution of crimes by our office.

Prior to May 5, 1986, the prosecution of an Indian for sexual misconduct was governed by 18 U.S.C. 1153 which is known as the Major Crimes Act. This had its origins back in the late 1800s; 18 U.S.C. 1153 provided, in part, that it shall be unlawful for any Indian to commit the following crimes against another Indian or other persons: rape, carnal knowledge of any female not his wife who has not attained the age of 16 years, assault with intent to commit rape, and incest.

Thus, if a male Indian molested a male child within Indian country, there was absolutely no jurisdiction to prosecute that case in Federal court.

However, if a non-Indian male committed the same offense, we had the statute of 18 U.S.C. 1152 which incorporates the Assimilative Crimes Act and 18 U.S.C. 13 which allowed us to prosecute the non-Indian for those crimes because we were allowed to resort to State statute. This was the jurisdictional basis on which Mr. Boone and Mr. Todd were prosecuted.

In 1984, the crime of involuntary sodomy was added to the Major Crimes Act of 18 U.S.C. 1153, but, really, the cases that we had rarely dealt with involuntary sodomy.

In May 1986, the Major Crimes Act was amended again to include the felonious sexual molestation of a minor. The definition and punishment were defined by State statute in the State in which the offense occurred, and that is according to 18 U.S.C. 1153(b).

In essence now, all of the Indian and non-Indian defendants were treated alike. They were now being prosecuted under identical stat-

utes of sexual molestation offenses which reflected the State statute in the State where the crime occurred.

In Arizona, there are very stiff penalties for this kind of conduct. However, in other States throughout the Nation where the Assimilative Crimes Act could be used, they might not be as stringent.

However, in December 1986, within an almost 6-month period of time, the Sexual Abuse Act of 1986 was enacted, and this became preemptive. The purpose of the act was to enact an omnibus bill that dealt with the broad range of criminal sexual activities, including those of children, and which could be applied uniformly to Indians and non-Indians alike.

The passage of the two acts so closely together presented a very practical problem to prosecutors who have the responsibility of preparing charging documents. The date of the offense determined how the case was to be charged, if at all, and the maximum sentence available.

One of the difficulties is that some of the victims were unable to specifically target the date of the offense. So, if they have an intervening birthday, it is very critical whether the person was either 11 years old or 12 years old. If it became a 12-year-old child, it was at that time a misdemeanor. Therefore, there was absolutely no way to prosecute an Indian for a misdemeanor. If it was a non-Indian, we could prosecute the case if the child was over 12 years of age.

So, if the victim misrecollected the date of the offense or had no independent recollection, that creates a very serious proof where you have to prove the case beyond a reasonable doubt.

The Sexual Abuse Act of 1986 has been amended by section 7058 of the Anti-Drug Abuse Act of 1988 which enhances the penalties. So, 18 U.S.C. 2244(a)(1) maximum penalties have been increased from 5 years to 10 years, and the maximum penalty for 18 U.S.C. 2244(a)(3) has been increased from a 1-year misdemeanor to a 2-year felony.

Now, the Sexual Abuse Act is meant to apply to a broad spectrum of Federal enclaves and reservations which require a statute with gradations of punishment for a variety of sexual conduct for use on military installations, Federal post office, and things like that where some sort of a sexual abuse may occur. You need these gradations.

However, for the acts that we are experiencing in Arizona on the Indian reservations, it is our opinion that the statute needs further refinement.

And 18 U.S.C. 2241(c) sets 12 years of age as a threshold for prosecution. In some of these cases we have prosecuted, the sexual contact occurs somewhere between the ages of 11 and 15. Once the person is past the age of 12 years, the case becomes materially different in terms of sentencing, yet the sexual acts are the same.

Most State statutes extend the acts of molestation to include the victim's 15th year. I think it is interesting to note that several studies show that the median age for males who are molested is somewhere between the ages of 10 and 13, so the arbitrary cutoff at the age of 12 years makes a big difference.

However, 18 U.S.C. 2241 speaks in terms of sexual acts by force through threatening behavior. In the cases that we have experi-

enced by the teachers, these students were seduced. They were not acted upon by force or violence. They were, in fact, seduced.

The cases thus turn on the age of the victim, and the statute that was in effect at the time of the events. Had the Sexual Abuse Act been in effect when the *Todd* or *Boone* cases were concluded, the results in terms of the sentence of each defendant would have been a dramatically lesser period of confinement.

The statute of 18 U.S.C. 2241, 2243, and 2245 have, by their definitional terms, drawn the distinction between male and female victims. They are not gender neutral. Under 18 U.S.C. 1153 and 2241(c), the carnal knowledge of a female could draw up to life imprisonment while the masturbation of a male child over the age of 12 by a male could only be punishable now by up to 2 years imprisonment. Prior to that time, it would be only 1 year, and since it was a misdemeanor if it was an Indian parent, we could not prosecute that case as a matter of law.

I am attaching a copy of the Arizona Revised Statute 13-1401 which may be helpful in reviewing this matter which sets out what Arizona does in the definition between sexual abuse, sexual contact, et cetera.

I noticed in the audience today our good friend, Dale Patton, who is the Navajo County Attorney who, on more than one occasion, has tried to attempt to prosecute cases of a non-Indian who commits these acts on an Indian. The problem is that there is a glitch in the case law, and the Arizona courts, so far, have taken the opinion that on those kinds of cases, there is not concurrent jurisdiction, that there is exclusive Federal jurisdiction in the Federal Government.

Therefore, our country attorneys who would like to take aggressive action against non-Indians who commit offenses on Indian children in those communities are precluded by law from taking that action. That may be something the Senate panel may wish to get into.

However, I would like to commend the Navajo County Attorney, Dale Patton, for his outstanding efforts in trying to at least take these cases forward in State court.

Lastly, it is my opinion as a prosecutor that the punishments in 18 U.S.C. 2244 seem low and inconsistent with most State statutes which are significantly higher, as we talked about.

We have already talked about the fact that there is no documented cure for a fixated pedophile offender who can be cured, and I think that makes a good case for a significant, mandatory jail sentence to warehouse these individuals so you keep them out of society so they cannot get out and re-create the crime.

Yesterday, I was contacted by the United States Attorney in South Dakota regarding a child abuse case. Because of a statutory void, he was unable to file charges against the mother who allegedly starved her 9-week-old child. There may be a question of whether there may be an attempted negligent homicide, but there is no general attempt statute. He is researching the case now, but there is no specific statute dealing with those kinds of cases.

The child is not dead, I might add. They have been able to keep the child alive.

There is a need for comprehensive treatment programs to help rebuild the lives of these victims, and that has been touched on today. The reservations and Federal agencies are without sufficient resources, and people live in remote areas hundreds of miles away from metropolitan communities where programs do exist.

The Department of Justice for victims of crime, in particular, Assistant Attorney General Richard Abell and Dr. Jane Burnley, Director of the Office of Victims of Crime, have taken a personal interest in bringing crisis counseling and therapy to such victims. I want to say that it was through our office and Dr. Burnley and Assistant Attorney General Rick Abell that we were able to get $50,000 to help the people up on Hopi. That is crisis intervention, and those funds were taken away from other programs.

Again, there is a funding mechanism there with regard to the funding of the Children's Act that I testified about last year that I think is inadequate funding, because most of the money goes to the States. The States do not return that money to victims of Federal crimes.

We would ask that you might want to revisit that issue to see if that could be readjusted to see if the victims of crime, exclusively on Federal reservations, particularly Native Americans, get a bigger chunk of that pie.

Again, our services in this area are crisis intervention. They deal with the cases that occur at the crime, but a mechanism needs to be developed so the appropriate agencies have sufficient resources to engage in the long-term care and treatment of the victims of sexual abuse.

I would also like to comment that seated immediately behind me is Roger Dawkin, the First Assistant U.S. Attorney for the District of Arizona and the chief of our criminal division in Phoenix. He was the prosecutor in the Boone case. Also, Mr. Dawkin has done an outstanding job in working with the tribal investigators, the tribal prosecutors, the BIA investigators, and, particularly, Ted Quasula who has done an outstanding job, and the FBI in setting up working groups in working on these cases to ensure a more effective case of prosecution. I would be remiss if I didn't say if it weren't for him, a lot of these cases would not have achieved some of the better results that they have.

Child sexual abuse on the reservation is not a passing phenomenon. It will remain a significant challenge and responsibility for the United States Attorney's Office, but we need adequate statutes to aggressively prosecute these cases, Senator.

With that, I would respond to any questions that you might have.

[Prepared statement of Mr. McNamee appears in appendix.]

Senator McCAIN. Thank you.

Before we go on, could you describe the process that your office goes through when a situation of child abuse comes to your attention? I think it is important not only that we hear this today but that the 20 tribes in the State of Arizona understand that process. I don't think there is a clear understanding out there now as to what process your office goes through.

Mr. McNAMEE. I am glad that you asked that question, because there is a perception that when the allegation is made, somehow

the person miraculously ends up in jail and nothing else happens in between, and that is far from what the process is that occurs.

When an allegation is received, it is important that it be investigated by the proper agency. There is a real technique in interviewing child victims. It is also important that you have credible victims and that you have some sort of corroborative evidence.

Many of these cases involve a one-on-one situation. Let's say its a father-son or father-daughter case. Without independent evidence, it is very difficult to be able to prove that that occurred. As we have heard from earlier panels, a lot of times, when that knowledge is known, it is denied and the evidence is not brought forward.

Once it gets to the proper investigative agency, they begin to go out and conduct the investigation. We have a relationship in Arizona which is somewhat unique from other areas in that we try to involve tribal investigators, the BIA, and the FBI.

Much of this is the result of location, but it also presents problems, because when the tribal investigators go out, however well meaning they are, if they are called to come to Phoenix and testify about this matter, it takes time away from their duties up on the reservation. It often takes them 6 to 8 hours just to get to court for a court hearing. If you do that two or three times with each case, that is a long time away.

So, that is one reason we use the BIA and the FBI. Also, they have gone through the training process to do this.

We have training programs set up to work with the tribal police in this area. Mr. Dawkin, I will tell you, has been working on that. He also publishes a book that I can give to the panel about the investigation and about how to ask the questions and about what the elements are. You don't engage in a free-wheeling conversation. You focus in on the elements of the crime and whether they can be proved beyond a reasonable doubt.

Once the investigation is done, the case is referred to our office. Depending on the exigency of the circumstances, there may be a need for further investigation or a complaint may be filed immediately or we could present the case immediately to the grand jury for indictment.

The defendant is generally arrested, and then we go through what we call a detention hearing. Under the new statute, we can use their potential harm to the community as a basis for detention.

Under the old Bail Reform Act, the person was presumed to show up at trial. Therefore, there was absolutely no basis for detaining the individual. That caused a lot of misunderstanding, because the person would come to court, they would be out on bond, they would go right back to their community, and they would say the U.S. Attorney is lying down on the job. What is going on here?

But that is what the law was. The law has been changed, and now, in all these serial molestation cases, we have been successful in detaining the victim pre-trial.

From there, we go through extensive pre-trial hearings. If they made a statement, they move to suppress the statement. There are numerous cases where they might ask the person to go out for a psychiatric hearing. They are preparing their defense.

Of course, the victims in these cases are very often subject to very rigorous cross examination, and that is very important when

you have a small child who is up on the witness stand who might be 7 years old trying to relate those instance of sexual abuse when you have the defense counsel whose duty it is to represent the defendant to vigorously cross examine those individuals.

Our victim witness unit is very active and our prosecutors are very active, but you have to understand the consequences when you come to court.

Then, there are either plea negotiations or a trial. In the case of a trial, 12 people sit up there and judge the case. If they are found guilty or——

Senator MCCAIN. Do you use video testimony?

Mr. MCNAMEE. No; you cannot use that any more. The courts have—we have tried that, and the State courts of Arizona have thrown that out, and we believe the Federal courts have not allowed that either. It is not allowed in Federal court.

So, we have tried that, but we have been less than successful.

That is why it is important when you take the statements the first time to get a good accurate statement. If you will permit me, I will either do so now or at the end of the questioning to respond to the statements made by our colleague from the Navajo Attorney General's office with regard to why we don't announce these investigations. I would be happy to respond to that, if you wish.

Senator MCCAIN. Go ahead.

Mr. MCNAMEE. Let me finish the trial first.

Of course, once they are convicted, they are sentenced, and I am happy to report that in each of the cases where these individuals have been sentenced, we have not compromised the case on term of incarceration. They have been exposed to the maximum period of incarceration.

We have not brought all the charges that may have been available, but you never do that in any case to begin with. So, we have brought the cases, and you can't get more than a life sentence. What Mr. Todd got, you couldn't get any more time than what the judge gave him. I am pleased to report that.

It was suggested in one of the earlier panels that we announce our investigations to the tribal leaders, the tribal organizations, et cetera. We don't do that for a lot of good prosecutorial reasons.

First of all, we take the low profile. When you announce one of these investigations, everyone is put on notice. There is mass hysteria everywhere. People start making statements. They make inconsistent statements. Three or four different agencies have taken statements from these witnesses. All of those statements must be turned over to the defense.

So, if the child makes inconsistent statements or misrecollects or is led through their testimony as opposed to their telling what in fact happened, you get accused of witness intimidation, fabricating testimony, et cetera. So, we go out and have people to investigate these people and take statements from witnesses by people who know what they are doing.

Secondly, if you announce the investigation, it would be very difficult to serve a search warrant on these defendants which we always do, and we often get incriminating evidence. You can't do that if they know that they are the target of an investigation and

you have announced that these people will be prosecuted if we can prove the case.

It avoids posturing among officials to point the finger of blame as to who should have done what first. It often gets into a political tussle rather than a good, effective, hard ball prosecution.

When you telegraph the information to the defendant, they are allowed to prepare a creative defense. In one case, it becomes very difficult to interview the witnesses. When we went out and had one of the teachers, we had many of the co-teachers who were trying to, in our opinion, interfere with the investigation. They came very close to being charged themselves with intimidating and impeding an investigation, because these people are so good at teaching, they have such a rapport with their people and their other co-teachers that everyone wants to deny it.

Therefore, they say it couldn't happen, and they begin to work on the victims so that we can't get a good statement from them. They try to intimidate the people.

We have periodic meetings with these working groups that I have discussed somewhere between four and six times a year. In particular, we have representatives of the Navajo Attorney General's office there. Of course, this was the first time I have heard that they have had a problem contacting our office, because at all the meetings, that is the time for the agenda to flesh out all these difficult things.

So, I would suggest if we have problems that we pick up the phone and we talk.

The defendant has an absolute Fifth Amendment privilege, and when you go out to interview these people, they have a right to their Fifth Amendment privilege, and you have to make your case regardless of what he says and prove it beyond a reasonable doubt. That is tough in these cases.

We have worked on additional training activities through Mr. Dawkin, through the Tucson Police Department and their people, through the BIA, and through the FBI.

So, for those reasons, I——

Senator McCain. Couldn't you, however, install a procedure where you would notify the tribal attorney general on the basis that the tribal attorneys general would maintain confidentiality?

Mr. McNamee. We would be attempting to do that, but we find out, through no exclusive leak or anything like that, but when you are dealing—half the time when we do these cases, people in our own office don't know the full extent of the prosecution. We keep a lot of these in very close circles, because the more people who know, the more opportunity there is for an accidental disclosure, not through a willful but a totally accidental disclosure.

Senator McCain. Well, I think you should consider that, though, Mr. McNamee, because it is really also a kind of a joint jurisdictional situation here given the Federal-tribal relationship.

Let me ask one more question. I am again violating the rules, but it is on the subject of Boone.

According to media reports, Mr. Boone is now engaged in correspondence with the children that he has molested which, when we are trying to help these children get over this experience, appears to me to be an incredibly harmful situation.

I am not a lawyer—and I am not ashamed of that, but it——

Mr. MCNAMEE. You are lucky. [Laughter.]

Senator MCCAIN [continuing]. In the case of Mr. Hinckley, the Federal Government has the authority to monitor his mail and see where it goes and what is done. Could we not prevail upon the authorities where he is in prison to prevent this correspondence or at least notify the parents that he is attempting to correspond with these children?

Mr. MCNAMEE. Senator, that has already been done. We have already notified the warden at the Bureau of Prisons. They have internal mechanisms.

Also, when those letters come out, there is generally a stamp up there that says Bureau of Prisons under the franking privileges or whatever, and I would suggest that when people receive those that they toss them in the trash can and not even open them, because there is a thin line between a person writing and saying, in convoluted terms, that they are sorry or this or that as opposed to engaging in a willful intimidation of a witness.

We are monitoring that, and if we find any of those letters that meet the Federal standards, we may very well prosecute Mr. Boone again. But on the other hand, we have referred it back to the Bureau of Prisons to see if there is any internal mechanism that they have to rectify that situation.

Senator MCCAIN. I would hope that, at a minimum, an absolutely minimum would be that the parents would be notified that Mr. Boone is trying to correspond with their children so that they would be able to at least be involved if not more than that.

Mr. MCNAMEE. Well, I think so. I mean, I agree with you, and we do try to notify them, but a lot of times, this goes on without our knowledge. When they do show up with a franked envelop from the Bureau of Prisons, that ought to put them on notice. A lot of them go to the parents, too, and it could put them on notice on that issue.

Senator MCCAIN. Dr. Brown, please proceed.

STATEMENT OF EDDIE BROWN, DIRECTOR, ARIZONA DEPARTMENT OF ECONOMIC SECURITY, ACCOMPANIED BY GLORIA FOHRENKAM, INDIAN CHILD WELFARE SPECIALIST

Mr. BROWN. Thank you.

As indicated, for the record, my name is Eddie Brown, and I am Director of the Department of Economic Security for the State of Arizona. I am currently on leave from Arizona State University where I serve as associate professor in regard to social policy. I have also had the opportunity of spending approximately 2 years as chief of social services of the Bureau of Indian Affairs in Washington, DC. So, it is based on these experiences that my comments and testimony are made.

I also have, as indicated, sitting next to me, Mrs. Gloria Fohrenkam who is the Indian child welfare specialist for the Department of Economic Security.

Indian tribal governments and Indian communities, like all other communities in our society, are struggling with difficult issues of child abuse and neglect. It has only been gradually during the past

15 years that tribal governments in Arizona have obtained funding from the Federal Government to operate social services, courts, and law enforcement systems on Indian lands.

Tribes have had to meet many challenges in developing, implementing, operating, and financing their services and governmental systems. Tribes have been faced with the challenges of providing services to populations that are rural and isolated, that experience high rates of unemployment and poverty, and where almost half the population is under the age of 18.

At the same time, tribes have had to cope with uncertain funding for self-determination contracts and with inadequate funding for discretionary Indian Child Welfare Act grants. I think it is very important to point out that funding to States such as the State of Arizona under title IV of the Social Security Act for child welfare services is treated as an entitlement. Yet, funding to tribal governments to meet similar responsibilities is dependent upon annual appropriations that often compete for many other priorities in the Bureau of Indian Affairs' budget.

In addition, tribal governments many times have had to develop systems of child protective services, foster home recruitment, licensing, adoption procedures, crisis intervention, family therapy, and casework, often with little or no guidance.

Based on that, the Department of Economic Security, along with the Inter Tribal Council of Arizona, and various tribes in Arizona are very pleased that we have laid a strong foundation in working cooperatively in the State of Arizona to begin to address this most needed area.

I will not at this time go into the groundwork that we have laid in regard to that. I know Mr. Lewis from the Inter Tribal Council will allude to this. Suffice it to say that we have worked closely and built strong relationships. We see those relationships as necessary in order to address the needs of families and children here in Arizona.

There has been much discussion here about sexual abuse and physical abuse of Indian children that has taken place in federal schools as well as neglect of children that has taken place within Indian families and Indian communities. It is important that we distinguish between the types of child abuse—physical abuse, sexual abuse, mental abuse, and neglect—and the environment in which they are taking place.

It is evident from the testimony that sexual abuse of Indian children has been widely publicized. But the suffering of the victims continues. Mental health resources need to be coordinated between tribes, the BIA, Indian Health Services, and the State of Arizona.

The treatment services that are provided need to be culturally appropriate, especially for those tribal communities that maintain traditional beliefs.

Too often, however, publicized cases of child sexual abuse on Indian land lead people to jump to the conclusion that child sexual abuse is rampant on Indian reservations.

Jumping to ill-founded conclusions will not contribute to a positive response to the very serious problem that we are facing.

In order to get to the real issues in regard to child abuse in schools, let's take a closer look and do a brief analysis of the way the Bureau of Indian Affairs' schools are administered.

These schools are operated with Federal funds. While Bureau schools are nominally controlled by local school boards, in fact, the control lies in the Bureau's budget process. The school boards have the authority to fire poor employees, but the boards do not have the funds to attract the best teachers, counselors, and administrators.

On the average, Bureau teacher salaries are approximately $3,000 less than comparable public school salaries. Funds that a school board would try to spend for increased teacher salaries must be taken out of funds that would otherwise be spent on extraordinary transportation, teacher housing, and maintenance costs in very rural and often isolated areas.

Legislation enacted by the 100th Congress calls for a study comparing Bureau salaries with other systems, including the Department of Defense and domestic school systems. The results of this study should be carefully reviewed by Congress.

Public Law 95–561 created an organizational separation between the Bureau Division of Indian Education and all other divisions in the Bureau of Indian Affairs. Therefore, Bureau education programs are not coordinated with Bureau social services or law enforcement systems as well as they should be.

Furthermore, Bureau schools, because of their separate status, are often not coordinated with tribal social services or law enforcement systems. This lack of coordination with tribal governments and with the larger Federal structure invites a lack of accountability, including a lack of complete background investigations of personnel applicants.

Clearly, there needs to be better accountability by Bureau schools to the local Indian communities, especially to the parents.

Let me focus in now on child abuse or neglect in Indian communities and families.

As Director of the Department of Economic Security and with past experience in the Bureau's social service program, I have had a great deal of experience in looking at problems of child abuse and neglect on Indian lands. From working with tribal social workers, court judges, and police, and from studies conducted by the Inter Tribal Council of Arizona, it is clear that child neglect, with the exception of the boarding schools, is the more common on Indian lands than sexual or physical abuse.

It also appears that child neglect is closely related to poverty, high rates of unemployment, and a lack of family resources for adequate housing, nutrition, clothing, and utilities.

For example, in 1986, the Physician's Task Force on Hunger identified both Coconino and Navajo Counties in Arizona as "hunger counties," meaning that more than 20 percent of the residents in these counties have annual family incomes below the poverty level, and fewer than one-third of eligible residents receive food stamps or benefits through tribal commodity programs. DES is currently exploring ways to overcome obstacles to providing nutrition benefits in Coconino and Navajo Counties.

The unemployment rate on the Navajo Reservation, taken from BIA labor statistics of January of 1987, is 49 percent; the unemployment rate on the Hopi Reservation is 42 percent.

Indian communities, it should be pointed out, have the same needs and wants as all other communities, that is, participation by its members in socially and economically productive activities, a commitment to family values, the sharing of parenting skills and support for distressed families. These strong commitments to family values are embodied in the Indian Child Welfare Act.

DES shares with tribal communities the value that the family is the institution of society best able to meet the needs of its family members. I take personal pride in the fact that so many Indian families in Arizona have managed to stay together, to raise healthy children, to care for their elderly, and to prosper in spite of the tremendous and often adverse political, social, and cultural pressures that are brought to bear.

Tribal governments, predominantly in the past decade, have begun to operate their own social services systems with funding from the Bureau of Indian Affairs. As tribes have taken over these functions from the Federal Government, I think it is important to point out that they have invariably changed the focus of the service.

In the past, one of the primary functions of the Bureau of Indian Affairs' social services on Indian lands was to place children in out of home placements off the reservation. This was a continuation of an historic policy of removing Indian children from their families, their communities, and their cultures in an attempt to force assimilation into a non-Indian society.

As tribes have taken over these systems, however, they have emphasized services to the family, including support services to maintain the family. There are many Indian communities where children have gone to Federal boarding schools, particularly where children were placed in boarding schools as young as the age of six. These people missed the opportunity of growing up in families which is where family values and parenting skills are learned.

Many Indian people who are now grandparents were taken away from their homes at a young age and did not return to their homes for many years. Often, these same families would in turn send their children away to boarding schools. Many families have seen their children grow up only during summer vacations from school.

As a result, several generations of families in many communities have missed the opportunity to learn basic parenting skills such as communication, guidance, and discipline. With the closing of the Federal boarding schools during the past 8 years, the family pattern of having boarding schools raise children has been broken, but few support services have been offered to help families to rebuild and strengthen their parenting and living skills.

Therefore, tribal social service workers are faced with increasing demands for child welfare and family services that never before existed on Indian lands.

Now, let me just talk briefly on recommendations.

Too often, Federal policy makers view Indian economic development and human services as either/or choices. Policy makers need to begin to recognize, as many State Governors already recognize,

that rural, underdeveloped communities need an integrated policy of social and economic development.

Economic development will not be successful in communities where families are dysfunctional, where family members go hungry, or where day care is not available for dependent children or disabled elderly. In addition, the change from a subsistence economy or a transfer payments economy to a wage-labor and consumer economy in itself creates new social needs. For example, day care needs as were pointed out by Chairman Sidney.

Second, Indian tribal governments need permanent and stable funding for social services, law enforcement, and courts. Funds to the State of Arizona, as I pointed out earlier, under title IV of the Social Security Act are treated as entitlements. But funds for tribal programs, operated under Indian self-determination contracts, are subject to the annual BIA budget process which too often results in annual budget uncertainties.

Funding for Indian Child Welfare Act grants is only $8.8 million for fiscal year 1988. When the Act was originally passed, it was estimated that it would take anywhere between $20 and $30 million to actually meet the need.

Tribes are forced to compete for these grants, and there is no guarantee of continued funding. Tribes are well aware, however, that child welfare needs do not disappear when the discretionary funding ends.

The Federal Government needs to fund child welfare services as an important and permanent part of tribal social services, judicial, and law enforcement systems.

Third, better coordination between the BIA education system and the rest of the Bureau and between the BIA, the tribes, the Indian Health Service, and the State need to take place. DES is willing and committed to continue working with tribal governments and Federal agencies to meet the needs of all children in Arizona.

Finally, it is my hope that as the Select Committee on Indian Affairs considers amendments to the Indian Child Welfare Act that it move beyond amendments dealing exclusively with jurisdiction. We recommend that the committee consider the practical approach that the State and tribes have taken in Arizona to develop service systems that respond to Indian child welfare needs. We further recommend that the committee work closely with experienced tribal social service workers on any proposed amendments in an effort to address practical needs for resources, technical assistance, and State/Tribal, intergovernmental cooperation.

Thank you very much.

[Prepared statement of Mr. Brown appears in appendix.]

Senator McCain. Thank you, Dr. Brown, for a very impressive and thoughtful testimony.

We would now like to hear from Mr. John Lewis whom we have had the privilege of working with very often in the past. He is the Executive Director of the Intertribal Council of Arizona.

Welcome, Mr. Lewis, and thank you for being here today.

STATEMENT OF JOHN LEWIS, EXECUTIVE DIRECTOR, INTER TRIBAL COUNCIL OF ARIZONA

Mr. LEWIS. Thank you.

My name is John Lewis. I am the Executive Director of the Inter Tribal Council of Arizona.

The Inter Tribal Council of Arizona is an organization established to serve the Arizona tribes by providing a forum that addresses issues of common concern to the tribes. I appreciate the opportunity you have provided me to address child abuse and neglect on Arizona Indian reservations.

At the passage of the Indian Child Welfare Act in 1978, the tribal governments made the statement to the Congress of the United States that decisions to protect the interests of American Indian children can best be made by the tribes and Indian families to whom the children belong. I think we still need to work more to bring that about.

Since the enactment of that particular act, the tribes and our organization have been continuously engaged in numerous efforts to promote the welfare of Indian children and families through collaborative efforts. This has included the Arizona Department of Economic Security, the Arizona State University School of Social Work, the Bureau of Indian Affairs, and other agencies.

The results of this have been a project to assess the child welfare delivery systems on Arizona reservations in 1981 and 1982. It also included a study of the reported incidence of child abuse and neglect on Arizona reservations in 1983. There has also been advocacy to develop a State-funded program to prevent child abuse and neglect on reservations in 1984, and presently, we have approximately 12 projects that are ongoing and will be continuing.

Another effort has been five annual conferences on Indian child and family services which have brought together over 400 representatives from the State, Federal, tribe, and private agencies in an annual forum to identify intergovernmental and service delivery issues. It was at the earlier conferences that we held when the discussion of child abuse and neglect was brought forth and gave direction for us to proceed in these interagency efforts and these intergovernmental efforts.

Currently, we are conducting a project with Arizona State University and the Arizona Department of Economic Security to define the skills, attitudes, and values needed by human service workers who work with Indian families, and we are developing a training curriculum based on the research of the project. As a part of this effort and with support from the Bureau of Indian Affairs, we will be holding our third tribal child protective service academy in December of this year. This is a professional training of 64 hours for tribal human service workers, police, probation officers, tribal court personnel, and others in the medical, psycho-social, procedural, and cultural aspects of delivering child protective services.

In 1983 when we conducted a survey of child abuse and neglect, 340 cases of substantiated child abuse and neglect were reported to us among 14 of the smaller tribes. This year as we update this data, there have been 439 cases of substantiated abuse and neglect from only 6 of those tribes.

These numbers do not include the victims of the highly publicized sexual abuse cases during the last 2 years.

Additional study needs to be conducted to determine if the increasing number means there is more child abuse and neglect or if the increase is a result of the tribes becoming more aware of this particular area and dealing more openly with the problems and related social conditions.

We feel that neither the Bureau of Indian Affairs nor the Indian Health Service have developed comprehensive initiatives nor provided substantive resources to support coordinated, systematic approaches with tribal governments for child protective services on Indian reservations. The mandated child protective teams have failed to work with tribes in Arizona to develop appropriate mechanisms for coordination.

When we proposed conducting our initial survey in 1984, representatives of the Bureau of Indian Affairs told us that child abuse and neglect is not a problem in Indian country. The Bureau's approach to child welfare services has been and continues to be to pay for foster care placements for Indian children outside of their homes.

The issue of child abuse and neglect in both the Indian and non-Indian society is tightly interwoven with and affected by other social problems. I believe that these have been identified by previous witnesses, but I think to try to address the issue of child abuse and neglect without dealing with other problems is an insufficient and, in the long run, ineffective way of addressing this condition.

Child welfare services, especially child protective services, must be designed to promote and strengthen Indian families rather than to promote placement of children outside of their families.

After care and treatment programs, particularly mental health services, are lacking for children and families in Indian communities.

Day care is also a critically important program to support working families and those families who experience frustration and may need substitute care for children. In Arizona, only 3 of the 20 tribes have day care services available on reservations, and these are supported mainly through tribal funds and parent contributions.

I believe in the mental health area, as has been brought forth throughout the State, that we are rated 50th in per capita spending in making available resources to address these needs state-wide in both the Indian and non-Indian communities. So, this is a very important area that needs to be further looked at and addressed.

Last week, it was reported to us by a small tribe that a child was refused admission to a hospital for a physical evaluation in a suspected child abuse case because the Indian Health Service wouldn't authorize contract health care dollars. The situation was not considered to be a life or limb emergency by the IHS officials.

A child protective service worker cannot protect Indian children under these types of circumstances.

Caseloads for human service workers are overwhelming. A caseworker may carry a generic caseload of 70 cases and respond as well as he can when child protective service referrals are reported. The Bureau of Indian Affairs must establish a priority to develop a

program of child protective services with specially trained workers who have a caseload of no more than 30 families.

In any consideration on changes to Federal laws, an emphasis must be placed on service systems. What is needed is to structure the Bureau social service functions to emphasize service delivery capabilities and a stable source of funding for services.

Regarding the Federal boarding schools and the problems of abuse, we can no longer tolerate the intrusion of less than fit characters into our children's lives. The Federal Government must work with tribes to develop appropriate Federal employee personnel standards and procedures to ensure that the protection of Indian children placed in their care is met.

The tribal court systems are the mechanisms for appropriate remedies necessary to resolve legal issues related to child abuse and neglect. Tribal governments have been reviewing and examining their court systems to adapt to rapidly increasing legal needs of their communities. Tribal governments are developing ordinances and regulations to govern an array of programs, activities, and business proceedings, and they are committed to strengthening their court systems so that enforcement and other proper court actions may occur when legal actions are necessary.

However, tribal governments need access to training programs and need financial support for their training needs. Federal commitment to providing this assistance to tribal courts is necessary if the tribal courts are to be prepared for new and challenging legal questions that come with this area.

Likewise, the law enforcement agencies are included in the training and additional resources.

A recent positive development has been the passage of a legislative amendment introduced by Senator Dennis DeConcini and yourself, Senator McCain, at the request of the Gila River Indian Community making Indian child sexual abuse a felony. As a result of this amendment, the U.S. Attorney's office has the responsibility for investigating and prosecuting Indian child sexual abuse cases.

However, we feel the amendment has also generated a large caseload for the U.S. Attorney. This office needs additional resources to continue to respond rapidly and vigorously to cases that are its responsibility.

Additionally, we feel that there have to be more formal interagency policies that include the Federal agencies and the tribal governments to expedite the investigative process for rapid disposition of the cases.

These are the things that we feel have been reflected by our work with the tribes here in Arizona, and we feel also that the resources that exist need to be focused in this area, particularly those that come with the Federal system. Many times, the Bureau of Indian Affairs and the Indian Health Service are waiting to act in response to memoranda or other types of agreements.

We feel that they need not wait for the direction. The direction is provided by the communities and by the tribes, and the time to act in these matters is today and not to wait which has happened in many instances in the past.

If you are considering legislation, certainly the Indian Child Welfare Act may be a vehicle for it, but there needs to be addressed

the mental health concerns, the day care concerns, the need for community education, and the need for coordination and integration with the schools—public schools, Bureau schools, and other private schools that are made available to the Indian communities. These are the things that are very important when you begin to look at the different elements.

But what it comes back to also is the recognition that the tribal governments and the Indian communities are the ones to take the lead in addressing these issues and need that commitment from the other agencies to work with them and to respond in immediate situations and to begin to work out this problem. So, one thing that is very important at this hearing is to begin to get a sense of that commitment and also to look at the tribes, to look at what they are doing, and to begin to work with them vigorously.

Thank you for this opportunity.

[Prepared statement of Mr. Lewis appears in appendix.]

Senator McCain. Thank you very much, Mr. Lewis. I appreciate your testimony.

Let me ask to start with, do you share Chairman Sidney's view regarding the so-called Swimmer initiative which calls for the transfer of BIA schools over to tribal control?

Mr. Lewis. I feel that is always an important part of Indian communities, having control over their education system, and I think there are many tribes which support the concept of that initiative, but the practicality of it with inadequate funding, inadequate facilities of the schools that were under consideration for transfer—there were many other concerns that were brought to the Bureau in response to that initiative.

In essence, there needs to be much more careful thought as to what that is and how it can best be done, but I think tribes would welcome that opportunity given certain conditions that could be worked out and agreed to. I think they would see that as a plus, but there are very practical considerations that tribes identified in order to make that really happen and be meaningful and really mean something as far as the tribe controlling that education process.

Senator McCain. Do you agree with Dr. Brown's statement that it was wrong to take children from reservations and put them into boarding schools far away from their family and their community?

Mr. Lewis. I feel that there were circumstances that made that one of the only avenues to go. In hindsight and looking at what all could be done in that process and what the role of the tribes and communities could be in that education process, it could have been done in a much better way. However, there were circumstances regarding just geographic locations, regarding the types of educational curricula that were available, regarding the access to transportation to go to school that really had to be considered.

However, we can see, particularly if we look at the school in Santa Fe where there is a boarding school and the types of community involvement and the types of school-community relationship between the parents, the children, and the personnel that boarding schools could work and can work. That was rated one of the top high schools in the nation.

So, I think that boarding schools under certain circumstances are very feasible, but, again, some of these concepts, if they could have been applied earlier, those types of problems in looking at the role of the boarding school could have been avoided.

Senator MCCAIN. Mr. McNamee, could you either—if you would care to elaborate in writing, you may—give us some input as to what specific changes you think ought to be made in order to provide for the necessary coordination between various agencies so that there is not the lack of accountability that I think you correctly state currently exists?

Mr. MCNAMEE. Yes, Senator, I think we will be happy to add something in writing on that.

However, just briefly, it is just important as we take a look in Arizona—and I have to speak from the perspective of Arizona and State government—as we move here and begin to look at the types of resources that are available, we understand the problems and deficits, we understand the other constraints that we have, and I think it begins to highlight even more in the State of Arizona that perhaps some of our greatest resources here are our cultural diversities.

Rather than continue to play on a cowboy and Indian approach to solving problems in Arizona, we have to take a look at a much more cooperative working relationship. The tribes, I think—well, both the tribes and the State as well as the Federal Government have to come together around the table to look at win-win kinds of situations. No longer can we have this territorial turf of this is the Bureau's, this is the State's, this is the tribe's, or this belongs to others.

I think it is becoming very clear, as I indicated, as funds decrease the need for better coordination and coming together and discussion those kinds of issues and determining who has responsibility for what. I think those issues and concerns are going to increase until we have an approach that allows us to come around the table, all those various groups, and form some type of consensus to resolve the problem and get on to meeting the needs of all citizens here in Arizona, those living on or off reservation.

Senator MCCAIN. I think all of us were pleased at the agreements that were recently signed between Governor Mofford and the Navajo Tribe and the Gila River Community. All of us, I am sure, applaud the Governor's efforts and yours in making these agreements come about, and I think they are landmark agreements.

Could you elaborate as to exactly what these agreements would mean for a child on a reservation who is being abused or neglected?

Mr. MCNAMEE. I think basically what this does—and let me tell you about the process. One of the things that in Arizona we have not done is to try to pass some type of a generic intergovernmental agreement that would apply to all tribes. Other States that have taken this approach have found themselves into more and more litigation.

Our concern is working with each individual tribe, developing an IGA agreement given the individual differences of that tribe, the concerns, as well as the development of their social services system

at that time. This has proven to be very effective here in the State of Arizona.

What this begins to do is clearly lay out what are the proper procedures, notification, et cetera that are tied to the Indian Child Welfare Act as well as what this also has done in the area of working with the individual tribes in developing the negotiation which has brought a much stronger tie between the State worker and the tribal social worker of understanding each other's systems, how to access that, how to provide technical assistance both ways from tribe to State and State to tribe, as well as how to identify additional funds, tie into grants at Arizona State University for training, and a number of, I think, very critical and needed types of programs and relationships.

So, we are, as well, Senator, very proud of that as well as the interest and the initiative shown by the tribes in working with the State government. This is one of the areas where you will see some very positive kinds of relationships of cooperation while recognizing the legal and jurisdictional situations of both governments coming together.

Senator McCAIN. Mr. Lewis, what support do you receive from the IHS or the BIA for your conferences and training sessions?

Mr. LEWIS. The Bureau in the past has provided us with some funding, partial support, but also both the Bureau and the IHS have been part of our planning committees as we proceeded. More importantly, initially as we started, the Bureau of Indian Affairs was an active participant. As of late, the Indian Health Service is beginning to become more involved with us in this area.

Senator McCAIN. Mr. Lewis, what is your opinion of the child protection teams?

Mr. LEWIS. I feel that the child protection teams, again, is a concept that looks good, but it is a concept that starts from the top down with mandated directions and without clear direction in some cases. So, as a result, I think there was some confusion. There has been some chaos in terms of the role of an Indian Health Service unit and their personnel versus the tribe, and there has been some conflict in working these things out.

So, I feel that, again, the approach to take is to begin at the tribal level. There are a number of personnel within a tribe that need to be coordinated with, particularly in cases where the tribes have acted in passing ordinances that outline procedures. Those have to be respected.

In some cases, the Federal agencies have not recognized that and have taken their mandated directions from the child protective team concepts as their guide rather than tribal ordinances. I think that is ill-advised and, certainly, is not very productive.

So, I think there has to be a backing up, taking a look at that concept, respecting the tribal human service personnel, the court systems, law enforcement, and working from that base rather than taking the direction from a national office.

Senator McCAIN. What is your opinion concerning Mr. McNamee's statement that consideration should be given to allow county attorneys to prosecute non-Indians who abuse Indians?

Mr. LEWIS. I think that certainly is a good effort on the part of the county attorneys in this case. I am not familiar with exactly what those circumstances would be, but the——

Senator MCCAIN. Let me give you an example. A non-Indian teacher abuses an Indian child in a non-BIA school, a private school. Therefore, it would be more difficult although not impossible for the U.S. Attorney to prosecute.

Would you subscribe to a procedure allowing the county attorney to carry out that prosecution?

Mr. LEWIS. I feel that would not be supported. I personally think that the Federal agency should be involved as well.

Again, part of the reason for the Indian Child Welfare Act was to ensure that the tribe and the communities and families were a part of these types of proceedings, because our experience has been that this has been misused in the past, and the intent of the Indian Child Welfare Act is to try to bring that into a more stabilized working relationship with a very important role for the tribal government and its different departments.

Senator MCCAIN. What role, then, would you see that the county attorneys could play?

Mr. LEWIS. Well, I think that, again, they could play a supportive role. They could provide, at the request of the tribes, a coordinated effort, make available their resources, their expertise, their training when called upon, but I would see them as a very integral resource.

Likewise, I think they could help share the education of particularly the child abuse and neglect situations with the general public, and if this can be done in a cooperative effort, I think this would have some impact on all our communities.

Senator MCCAIN. Mr. McNamee, I was troubled by your testimony indicating that if the two individuals cited that you prosecuted who received basically maximum sentences were prosecuted under present law, would have received much lighter sentences. I would appreciate your input as to how we can immediately change those laws so that we can ensure that pedophiles—and, again, I repeat that prevailing opinion is that pedophiles cannot be cured—do receive the maximum sentences and are warehoused to prevent them from repeating their crimes?

Perhaps you can give me the changes orally but, more importantly, perhaps in writing you could give us the proposed legislation that would be necessary in order to see that these offenders receive the maximum sentence.

Mr. MCNAMEE. I would be happy to do that and coordinate that with the criminal division of the Department of Justice, because, as I mentioned earlier, there are gradations of activities. An incidental touching in a post office is a lot different from what we experienced here. Therefore, we want to make sure that the statute would be applied fairly and uniformly with the major attention going to the kinds of cases that we have had to ensure maximum prosecution and maximum sentencing for these types of individuals.

Senator MCCAIN. I think you raise a good point here. It is very easy to simplify these crimes and the situations which exist when, in reality, they are extremely complex. However, I would hope that

we would have the capacity to inflict maximum punishment on those kind of offenders who are so destabilizing in our society.

Is there anything any of the three of you would like to add?

Mr. MCNAMEE. Part of the statute when it was amended in 1986 was a result of information provided by the Indian Affairs Subcommittee of U.S. Attorneys of the Attorney General's Advisory Committee to the Office of Legislative Affairs. I would think that would be the appropriate body to recommend proposed legislation, Senator, to give you that information. We will do that.

Senator MCCAIN. Thank you.

Mr. Lewis.

Mr. LEWIS. No, thank you, Senator.

Senator MCCAIN. Dr. Brown.

Mr. BROWN. I have nothing more, Senator.

Senator MCCAIN. Well, I want to thank all of you for your testimony. I would like to say that I think it has been a very useful and informative hearing. One which I think will give me the basis to return to Washington in January with some proposals for specific legislation, not the least of which is additional funding for programs which are being literally starved at this time which need to be fully funded in order to provide the needed services which I might say, in most cases, are available in non-Indian communities. In addition, we need to look at further amendments to the Indian Child Welfare Act, including the sentencing problems that we just discussed to ensure that the Justice Department has all the tools necessary to prosecute those who are guilty of these crimes.

At a later date, I hope that you and I and Mr. Lewis and other tribal authorities and interested people can explore this whole issue of jurisdiction of State and local authorities and jurisdiction of tribal authorities. I continue to believe that this is a major problem that has to be resolved sometime without infringing upon tribal sovereignty while, at the same time, preventing the impediment of justice for Indian and non-Indian citizens alike.

With that, I would like to thank all in attendence here today for their continued interest. I believe that we should take advantage of the concern and attention that has been focused on the issue of child abuse and child neglect. We have enormous tribal concern and support on this issue. We should take advantage of it and take the initial steps that are necessary to cure the problem that is afflicting our Indian reservations as well as the non-Indian society.

With that, the hearing is adjourned.

[Whereupon, at 12:44 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

Additional Material Submitted for the Record

PREPARED STATEMENT OF DEBRA HOOD, POLACCA, AZ

I am a parent with great concern for our Hopi people. I see our youth and families deteriorating from the trauma of Sexual Abuse. The abuse which occurred here had caused so much pain and confussion to our people, why must we be further traumatized by not having an adequate counseling staff? I find it degrading, not only as a parent but as a human being.

I can't begin to express my pain and grief of the past twenty one (21) months. One aspict was facing the reality of my sons being molested. The painful reality is this issue of abuse will cause confussion in their future. For the past 21 months I've stared reality in the face. Please allow me to share some realities with you.

- A five (5) year old boy was caught molesting a four (4) year girl. The girls mother caught them and the girls mother shared this with me four months ago.

- A nine (9) year old boy had been molesting a seven (7) year old boy for some time. The seven old boy told his mother and his mother shared this with me four months ago.

- A twenty-one (21) year old man was molesting a thirteen (13) year old girl, and incest case. The girl told me about this over one year ago.

- An eighteen (18) year old boy fathered a child one year ago. He is heavy into alcohol and chemicals, he was a victim of John Boone.

- A thirteen (13) year old had thought many times of suicide, he is my son and he was also molested by John Boone.

These are all realities. There are many more and will continue to be more unless we get professionals to help us deal with these realities. Another reality is that in the past year, so many parents have talked about their own sexual abuse as children. With people willing to talk of these painful issues shows that they want help, yet it is the painful reality that help is very limited.

I am one such person that is dealing with incest. I've had to look reality in the face in order to be available and understanding for my sons. I am fortunate to have had therapy. Up to this point there are alot of issues I still haven't been able to work through due to the unavailability of staff.

Thirty days ago, my sixteen (16) year old tried to commit suicide. She is in treatment off the reservation. I am very fustrated, I have not been able to deal with my emotional pain due to availabiltiy of staff. I can't do it alone and I need professional help.

I have waited and been patient along with other parents for twenty one very painful months. How much longer will we have to wait? Until we have a majority of our children suffering from abuse, substance abuse and suicide? We need help now and we need it now.

PREPARED STATEMENT OF MARY ANN PATTERSON

1. Monies for Counseling - Professionals
2. Child Abuse

Being a member of the School Board and the Village Board of Hotevilla, I have a very deep concern about the people, and especially the children in my community for they are the innocent that are being abused by what is happening to our people and our community.

We as Hopis are a closely knit family, even village to village we are related in various ways. As we were growing up we were told to have respect for our people, things relating to our bodies were never talked about out of respect, so out of these teachings we kept quiet and went on in life.

When I was a little girl about maybe seven (7) years old I went to buy some eggs early in the morning at a nearby house and her son was the only one home. I knew by the way he touched me was wrong but yet I never told anyone and to this day I have disliked this man and have always heard of his name mentioned and I wish I could do something about him. How can I forget? When? I am forty-five (45) years old now.

A medicine man in another village administer to me and abused me at the age of twenty-three (23). Would I talk about it? No!!! do I sent my kids to them? No!! not unless I am in the same room with them! He (medicine man) is to be respected by helping the people by what the creator had given him, yet he too is an alcoholic as I later learned and saw for my own self.

If I had not become involved with my school, community and the alcohol/substance sexual abuse program here on our reservation, this would still be within me and I would still let it go on and on. An anyone can see it has been in existence for a very long time and it is finally emerging and we can not let this be happening to our children for it will stay within you as years to come.

People here in my own community have come to me for support and answers, what can I do? where can I go to seek help? how can I go about this, I don't want anyone to know? There is the Hopi Guidance Center where there is Professional help, but is there? One person cannot handle all that that are being referred, even two professionals that come to our reservation once or twice every other week is not enough? We are in need, great need to help our people, even to train our people we need support and help.

There came before me a case of sodomy that had been in process for quite sometime, yet we hated to report it because of relation and respect. But I am glad that one parent loves her child to do something about it and that we would stand behind her, for these are young boys that will carry this with them for the rest of their lives.

Another case, a child molestation to which I am still waiting to see the outcome, for the molestic only stayed in jail for three days and is now back in our community. The parent has not been told of what is happening from the police department, are they really working with us? this is another question that needs to be answered, for I will keep encouraging our village members to keep pursueing the courts until something is being done, and they (the people) are to be informed of all happenings.

A rape had occurred which was reported but to my knowledge that is not the only one, but we are so afraid to report these things, communication between parents are lacking because we don't want to listen or believe them. We as parents are also abusing our children because we don't understand and want to help our children. We abuse alcohol and drugs, we fight and use language that are inappropriate in front of our children, we yell instead of talking, we look the other way when they are talking and we as parents, grandparents, relation need help just as much as our children do. Some of us have been abused in so many ways that we become abusers ourselves.

We are considered proud people, too proud maybe! But not too proud to admit we need help, just like everyone that has admitted and are seeking the same kind of things we are seeking and longing for, which is HELP.

Testimony of Eidell Wasserman, Ph.D.
Special Child Sexual Abuse Project Director
Hopi Tribe

The Hopi Tribe's Special Child Sexual Abuse Project is pleased to present this statement as part of the hearing record of the Senate Select Committee on Indian Affairs. I would like to commend Chairman Inouye, Senator McCain, and the other members of the committee for their commitment to addressing the issue of abuse of American Indian children. We hope to present you with information on the status of the Hopi Special Child Sexual Abuse Project, the services which the Project has provided to residents of the reservation, and the deficits in service delivery. Once this information is conveyed, we will make recommendations that attempt to rectify these deficits.

I am Eidell Wasserman, Ph.D., Director of the Special Child Sexual Abuse Project for the Hopi Tribe. I am a clinical psychologist with several years of experience in working with troubled families and sexual abuse treatment programs. I have been employed by the Hopi Tribe since May 2, 1988 to develop a sexual abuse treatment program.

I am sure that the members of the Committee are aware of the incident which occurred at Polacca Day School which led to the incarceration of Mr. John Boone for child molestation, so I will not spend the time to review that situation. It has now been 21 months since Mr. Boone's crimes became public knowledge. In that time we have seen several more cases of child sexual abuse in schools on Indian lands. Recently a teacher from Greasewood School was sentenced to 99 years in prison for sexually abusing students at that school. The need for sexual abuse prevention programs and for a model for community intervention and treatment of sexual abuse on Indian Reservations is clear.

In a community, just as in a family where abuse has occurred, the first responses include shock, anger, denial, and a tendency to blame the victim. On a reservation, these responses permeate the entire community. In a clan-based system such as on Hopi, every member of the Tribe is impacted by a multiple victim abuse situation such as the one at Polacca Day School. These natural responses mean that any attempt at intervention, or the provision of services, will take several months to establish, as denial gradually gives way to acceptance. This is exactly the situation we have seen on Hopi. Now, 21 months later, people are starting to accept that sexual abuse has occurred and that the victims and their families may be able to benefit from counseling.

During the past year, since initial funding for the Special Project became available, we have provided a variety of services, with limited staff. Initially, the Project had one staff member: Sylvia Lomahaptewa. Her job was to contact community members and to organize a parents support group. She has done an excellent job and the Polacca Parents Support group has now been meeting for over one year. Recently we have started a Parents Support group in the third mesa area as well. As we have provided educational presentations, and community awareness of the signs and symptoms of child sexual abuse has increased, a number of families and individuals have indicated a desire for help. Village community development specialists have requested educational presentations in their villages and BIA schools have requested prevention courses for their students. We have experienced a great deal of community support for our services. Our Polacca Parents

Group meets in the First Mesa Baptist Church and the Church has often allowed us to use their facilities for Project Activities.

These activities have included a therapeutic recreation program for First Mesa youth during this past summer. This program included substance and sexual abuse prevention components. Approximately 200 youth participated in these programs. Additionally, two community members have become certified instructors in a substance and sexual abuse prevention program known as BABES (Beginning Alcohol and Addictions Basic Education Studies). These parents, members of the Parents Group, are now presenting the BABES program in schools and communities across the reservation with the support of the Special Project.

Special Project staff have also presented a number of community presentations on sexual abuse detection. Our presentation at this year's Hopi Mental Health conference was attended by over 80 people. We have sponsored public presentations in all three Mesa areas across the reservation to increase community awareness of the issue of child sexual abuse. Additionally, we have provided in-service and special training sessions for professionals working with children.

As public awareness of child sexual abuse has increased and the demand for services has increased, the funds have not only decreased, they have disappeared. The Project received no funding for FY89. In September 1987 the Hopi Tribe received $179,000 to provide therapeutic services to John Boone's victims and their families. Of this money, $100,000 was a one-time grant from the Department of Health and Human Services (DHHS) and $79,000 was a supplemental allocation to the Tribe's Indian Child Welfare Act (ICWA) funds from the BIA Social Services Department. The ICWA grant ended on June 30, 1988, the DHHS grant is scheduled to end on December 31, 1988. Currently the Project is surviving on carryover funds from FY88 allocations.

The Project staff currently consists of myself, the Community Services Liaison, a half-time secretary, and two social workers who provide direct therapeutic services on a consultant basis. These consultants come to Hopi two days every other week. This level of staffing is totally inadequate to the need for service on the reservation.

PROPOSED SOLUTIONS

There is no way to recruit qualified professionals with specialized training in sexual abuse treatment without a source of on-going funding. That's the basic fact. We have the community acceptance, the need for services is clear, the demand for services is there. But there are not enough professionals to provide these services. We make presentations, people recognize the need for help, and we put them on a waiting list.

There are qualified professionals who are wiling to come to Hopi. Right now I have a resume on my desk from a Ph.D. psychologist with experience dealing with sexual abuse victims. He is a Native American from New Mexico who wants to come back to live in this area. What can I do? I can't offer him a job, there is no job to offer. There is no money to pay him even for one year.

I am a professional, an outsider to Hopi. I can provide you with facts and figures, and have done so in the written documents which accompany my verbal testimony. But I cannot speak personally of the pain experienced by the families on Hopi. I see some of the children in therapy. I see their academic difficulties, their lack of self-esteem their inability to form age appropriate social relationships, their sadness, their withdrawal, and their pain. I see their parents, guilt-ridden, lacking the skills to deal with their children's problems, beginning to deal with their own abuse and victimization.

You have the opportunity to hear some of these parents talk for themselves. I hope in the brief time they have to speak to you, that you will see what I have seen: the courage and strength which continuously humbles me. The willingness to confront their greatest fear and to turn their pain and anger into positive action to help their community. In the face of such courage, how can we, through lack of funding, deny them the bare essentials to heal themselves and their children?

PREPARED STATEMENT OF ANSELM ROANHORSE ON BEHALF OF THE NAVAJO TRIBAL DIVISION OF HEALTH AND SOCIAL SERVICES, FLAGSTAFF, ARIZONA

I. INTRODUCTION

The Navajo Nation Division of Health & Social Service (NNDHSS) is pleased to present this written testimony on behalf of the Navajo Nation regarding child abuse and neglect. Child welfare services are provided on the Navajo Nation through the NNDHSS and every effort is being made to strengthen and expand such services. We are pleased to be a part of the congressional hearing to address and document the many issues related to child abuse and neglect on Indian reservations.

As service providers and policy makers, we must incorporate this testimony with cited recommendations in order to reach our mutual objective of strengthening and expanding our nation's child welfare services.

II. OVERVIEW OF THE NAVAJO NATION

Of 300 federally-recognized Indian tribes and 200 Alaska Native villages, the Navajo Nation is the largest tribe with over 200,000 members of which 80% fluently speak the Navajo language. Over 60% are 24 years old or younger. Most Navajos live on or near the 25,000 square-mile reservation which spans parts of Arizona, New Mexico, and Utah. The Navajo people continue a distinct matrilineal culture and recognizes 74 clans.

The capital of the Navajo Nation is centrally located in Window Rock, Arizona from which most programs and services are administered, similarly to any state capitol where most state-wide service activities originate. Like state planning districts, the Navajo Nation is divided into five governmental centers, namely:

1. Eastern Navajo Agency (Crownpoint, New Mexico)
2. Northern Navajo Agency (Shiprock, New Mexico)
3. Fort Defiance Agency (Fort Defiance, Arizona)
4. Chinle Agency (Chinle, Arizona)
5. Western Navajo Agency (Tuba City, Arizona)

Navajo Nation is comprised of 109 Chapter communities electing 88 council delegates to the tribal council. The Tribal Chairman and Vice-Chairman preside over all council sessions and act as Chief Executives of the tribe.

Administratively, tribal government is divided into seven (7) Divisions as listed with identified Departments:

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1. Health & Social Services (Department of Social Services & Department Health Services)
2. Economic Development (Community & Business)
3. Educational Services (Child Development, Education, & Youth)
4. Human Resources (Public Service & Employment/Training)
5. Natural Resources (Resource Operations, Land Administration, and Resource Development)
6. Public Safety (Motor Vehicle Licensing, Emergency Services, Law Enforcement, Tribal Rangers, and Fire Department)
7. Community Resources (Housing, Infrastructure, etc.)

LEGAL JURISDICTION

In 1883, Courts of Indian Offenses were established on reservations by the U.S. Bureau of Indian Affairs (BIA). By 1934, the Indian Reorganization Act promoted the establishment of independent "Tribal Courts." The Indian Child Welfare Act (Pub. L. 95-608; 25 U.S.C. Sections 1901-1963) was passed by Congress on November 8, 1978; this Act reaffirmed the Tribal Court's authority over Indian child welfare cases.

Legal services provided on the Navajo reservation include the following:

1. Department of Justice (Attorney General's office, et. al.)
2. Navajo Legal Aid & Defender Service
3. Office of the Prosecutor (Chief Prosecutor, et. al.)
4. Juvenile Justice
5. Navajo-Hopi Legal Services

The Navajo Nation Judicial Branch makes up the Navajo Nation court system. The Judicial Branch is headed by the Chief Justice and assisted by six District Court Judges who are located at Crownpoint, New Mexico; Shiprock, New Mexico; Tuba City, Arizona; Chinle, Arizona; Window Rock, Arizona; and Ramah, New Mexico.

The Navajo Nation Children's Court serves two purposes concerning juvenile cases: a. Jurisdiction over child custody proceedings, and b. A court of Indian offenses, a court established under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings 25 U.S.C. ss 1903 (12).

III. OVERVIEW OF THE DIVISION OF HEALTH & SOCIAL SERVICES

The Navajo Nation has been administering Bureau of Indian Affairs (BIA) Social Service programs under contract since October 1981. In October 1988, the Division of Social Welfare combined with the Division of Health Improvement Services and formed the Division of Health & Social Services. The consolidation was for the purpose of streamlining services and strengthening human service programs. Services provided by DHSS' Department of Social Services include:

1. Child Day Care Services

2. Youth Group Home which provides residential and counselling services to 30 adjudicated youth residents
3. Family Services, including child protective services, foster care, and guardianship studies or adoptions
4. Financial Assistance
5. Home Care Services
6. Indian Child Welfare Act Program which intervenes on cases filed in state courts.
7. School Clothing Program

During Fiscal Year 1988, the former Division of Social Welfare (now DHSS Department of Social Services) provided social services to an average of 34,707 individuals per month. Breakdown of services is as follows:

	Social Services/Grants	Service Population
1.	P.L. 93-638 Social Services Contract	28,047
2.	Title XX Social Service Block Grant	1,665
3.	Low Income Home Energy Assistance Program	1,054
4.	Day Care Services	210
5.	Indian Child Welfare Act	150
6.	Community Service Block Grant	1,540
7.	School Clothing Program	3,453

According to the FY 1988 statistical report, the former Division of Social Welfare handled over 7,000 child protective cases of which over 90% were child abuse and neglect cases. This means that the Division handled around 583 new cases per month.

IV. DISCUSSION OF SERVICE DELIVERY ISSUES

A. P.L. 93-638 SOCIAL SERVICES

Since October 1, 1981, and under authority of P.L. 93-638, the Navajo Nation has administered Bureau of Indian Affairs (BIA) Social Service programs under contract with the BIA. Although the funding of this contract has always been brought up as a matter of negotiation, the BIA continuously averts the issue.

Issue No. 1 - Appropriations

A Bureau of Indian Affairs analysis reported a need of $4.8 for line item 2266, administrative funds, under the P.L. 93-638 contract but Navajo Nation continues to receive $2.6 million far below the amount needed to adequately deliver services.

Recommendation

The Navajo DHSS recommends that the BIA appropriate an additional $2.2 million to the Navajo Nation so that adequate child welfare services and other human services can be provided.

Issue No. 2 - Banded Monies versus Unbanded Monies

P.L. 93-638 Social Service funds which are used to pay social workers are considered "Banded" administrative funds. Banded funds are capped and do not increase although the caseload may increase. Hence, sufficient funds are not available to provide adequate services or strengthen a professional workforce. The Navajo Nation has made repeated recommendations that Social Service administrative funds be exempted from the band analysis procedure.

Recommendation

Navajo DHSS recommends that the BIA better define the "administrative" functions. The duties and responsibilities of social workers and caseworkers involve direct client services and are not definitively "administrative" in nature.

Issue No. 3 - Staffing Need

During October 1988, DHSS Department of Social Services determined that one Social Worker, on the average, carried 60 Child Protective Services (CPS) cases. One agency office reported that one social worker was responsible for 90 cases. According to national standards established by the Child Welfare League of America (CWLA), 25 to 35 cases per Social Worker meets professional standards. In addition to CPS, Social Workers are also responsible for monitoring adult-in-home care, institutional care, and other related services. Social Workers often neglect cases due to the fact that there is not enough time to handle all cases. The Juvenile Justice Section in the Navajo Office of the Prosecutor agrees that a need for manpower exists within NNDHSS' Department of Social Services. Additional manpower is necessary to support and strengthen child protective services and provide substantive monitoring of family situations on a continuing basis.

Recommendation

DHSS recommends that the BIA appropriate an additional $2.2 million under line item 2266 as mandated under Issue No 1 above.

Secondly, DHSS recommends that financial means be made available to recruit and educate Navajo people to become professional child welfare service practitioners on the Navajo reservation. The BIA's career development and training program must be reactivated with adequate funding support.

Issue No. 4 - Foster Care

The DHSS Department of Social Service's Specialized Child Care Service Program (SCCS) has made positive strides in the development of providing professional services. The foster care program currently has been able to recruit 135 family foster homes, offering licenses to approximately 20 regularly licensed homes, five (5) specialized homes, and 110 probationary licensed family foster homes. However, there is a high demand for foster homes. Due to the unavailability of foster homes, children are often placed in institutional care facilities.

Additionally, the Navajo foster families continue to request for training seminars in the area of specialized care.

Recommendation

DHSS recommends that continued efforts to increase recruitment, education, and certifying eligible homes. However, a major barrier seems to be the lack of professional manpower. Therefore, DHSS recommends that the BIA appropriate at least $30 million for components 2261-2265 (grant assistance/unbanded funds).

Issue No. 5 - Overtime

Current public child welfare service agencies are available during normal working hours. However, a majority of child abuse and neglect incidents occur after 5:00 o'clock and on weekends. Full support services must be made available and strengthened to respond to such needs of the community.

Recommendation

DHSS recommends that BIA appropriate an additional $2.2 million for line items 2266 as mentioned under issues 1 and 3 above.

B. INDIAN CHILD WELFARE ACT (ICWA)

The Indian Child Welfare Act (ICWA) was passed on November 8, 1978. The Congress approved ICWA because of the special relation between the United States and Indian tribes and their members, and because of the federal responsibility to Indian people. The Congress passed the act to prevent loss of Indian children from their families and their tribes.

Issue No. 1

While the Navajo Nation's ICWA caseload has increased by 50% over the years, the national funding level actually decreased, The Congress appropriated $9.7 million in FY 1983, $8.4 million in FY 1984, $8.7 million in FY 1985, $8.4 million in FY 1986, and $9.8 in FY 1987. It should be pointed out that Congress initially appropriated only $6.1 million for FY 1987 but it was only in June 1987 that Congress approved an additional $2.7 million. During FY 1988 tribal ICWA program handled 1,484 cases. The program handled 1,228 in FY 1986 and 1,336 in FY 1987.

Recommendation

DHSS recommends that the Congress increase the annual appropriation from $8.8 to $15 million.

Issue No. 2

The present funding guidelines provides a maximum funding level of $300,000 per year for tribes with more that 15,000 members. This

limitation simply ignores the reality of the Navajo Nation, where there are over 200,000 members and more than 50,000 of whom reside off the Navajo reservation.

Recommendation

DHSS recommends that the funding guideline be changed because it negates the needs of large Indian Tribes such as the Navajo Tribe. Presently, a Tribe with a target population of 15,000 persons can receive at the most $300,000.

Issue No. 3

The BIA has characterized the ICWA grant as a "Competitive Discretionary Grant Program," as such a grant application must receive a minimum score of 85 out of a possible 100 points to receive funding.

DHSS recommends that the ICWA grant funds should be changed to "entitlement funds" rather than "discretionary funds," and the funds not be awarded on a competitive basis.

C. MANAGEMENT INFORMATION SYSTEMS (MIS)

The DHSS Department of Social Services provides financial and social services, through eight (8) programs, to approximately 35,000 individual each month, with total annual expenditures exceeding $40 million.

Currently, the department maintains two (2) computer data bases, namely the Tribal Assistance and Projects Program (TAPP) and Foster Care systems. The TAPP data base (developed in 1970) and the Foster Care data base (developed in 1981) were designed to generate financial payments, general assistance and foster care checks, for the P.L. 93-638 Program, a function they still perform adequately. Because only minor modifications have been made to the system since they were implemented, the systems have become outdated and difficult to maintain.

In addition, the division has grown to the point where there is a need for an automated data processing system which would provide automated information, including client tracking, for all programs administered by the Division of Health & Social Services. An appropriate case management system would provide accurate, reliable information which could be utilized for a variety of purposes, including case management, program management (administration) and reporting purposes.

Recommendation

DHSS recommends that the BIA provide additional funds (above and beyond the current contract) to expand and further develop the DHSS management information system. Secondly, it is recommended that appropriate offices under the U.S. Department of Health & Human Services provide the needed funds and/or technical assistance to work on this endeavor. Such a system will allow DHSS to establish a central registry system for suspected child abuse and neglect (SCAN) referrals.

D. LEGAL ISSUES

Issue No. 1 - Legal Advocates

Legal representation for abused children and their families is available at each of the five Agency offices located on the Navajo reservation. However, the Chief Prosecutor's Office states that these legal advocates are not fully trained nor do they have proper credentials to provide quality legal services. Furthermore, legal advocates are limited in number and only one is available at each Agency to handle high caseloads. One DHSS Agency reported that it took six months to two years to file several cases on dependency. Numerous written complaints on file justify this claim.

Recommendation

DHSS recommends that the state and federal government provide additional funds to provide training and education programs in legal advocacy for children and parents.

Issue No. 2 - Navajo Law Enforcement Officers/Agency

Law Enforcement Agencies are available but are short-staffed and it is difficult to locate officers on the wide and dispersed open range on the reservation and consequently, the response time is not satisfactory. Strategies must be implemented to make available law enforcement officers response more timely to domestic violence and child abuse neglect incidents.

Issue No. 3 - BIA Criminal Investigations

Minimum support is seemingly provided by the BIA Criminal Investigator's office. Due to increased juvenile delinquencies and overloading staff with cases, child abuse and neglect cases may be investigated months later when the evidence may have been lost. Efforts were made to train Social Workers to properly identify, obtain and document evidence in sexual abuse cases, however, the BIA Criminal Investigator's Office discouraged the effort.

Issue No. 4 - Jurisdiction

Jurisdiction of law enforcement and investigation is problematic. Sexual molestation and related criminal acts require the assistance of FBI officials through BIA investigators. Unfortunately, the Navajo police department and prosecutors office have no authority in these cases. Serious cases have been reported to the FBI, by the BIA, weeks or months after evidence may be lost. Further exacerbating the problem is the need for review and evaluation of applicable laws, statutes, criminal procedures, and related regulations, and the interaction between agencies.

E. OTHER ISSUES

ISSUE NO. 1 - Satanism

New problem areas are recognized as they are seen to impact child abuse and neglect. Noted is an increased practice of satanism among the youth; while statistics are unavailable, Navajo Law Enforcement Officers are being trained to identify cultic related activities based on reported increase of satanic-related crimes occurring on the reservation.

Recommendation

The practice of satanism among the youth can only be dealt with by providing educational activities, community awareness programs, self-esteem building programs, and the promotion of parent-child communication to combat a cult known for serious, criminal activities.

Issue No. 2 - Child Protection Team

In FY 1988, funding was made available under the Indian Alcohol and Substance Abuse Prevention & Treatment Act of 1986 where the Navajo Nation received $50,000 from the BIA to develop the Navajo Nation Area Child Protection team. The CPT Area Team are composed of representatives from the Navajo Nation, Indian Health Services, and the Bureau of Indian Affairs.

Recommendation

The $50,000, a one time grant award, established the teams and facilitated data compilation; however, additional funds are needed to continue community education, informational publications for public awareness and other means on a continual basis.

Issue No. 3 - Federal Emergency Management Act

The off-reservation, nonprofit community-based organizations in three southern Arizona counties have not publicized the availability of the FEMA funds to the reservation communities although the poverty and unemployed rates on the Navajo reservation have been used. The reservation-based organizations have requested for a share of FEMA funds but the but the response is that because of location in one county, an organization cannot request for funds from other Arizona county boards.

Recommendation

DHSS recommends that the Congress amend the Federal Emergency Management Act (P.L. 99-500 of 1985) to allow direct funding to nonprofit service providers on the Navajo reservation.

Issue No. 4 - Facilities

Funding is necessary to construct facilities to house service providers as well as meet the needs of an increasing Navajo population. Currently, renovated BIA structures, temporary or condemned structures (i.e. trailers, etc.), and ~~low-cost,~~ low-quality units are being utilized as field offices. Resultantly, child rehabilitative facilities, shelters, and other facilities are located off the reservation the

practice which must cease if families are to remain intact.

Recommendation

Additional funding must be appropriated so that adequate facilities with needed conveniences may be constructed locally for enhanced services delivery.

Issue No. 5 - Tri-State and Tri-Region

The Navajo Reservation spans into three states and three federal regions. This situation requires the Navajo Tribe to work with three state governments, three federal regional offices, and the Bureau of Indian Affairs. Each governmental entity will generally have a particular set of requirements, and this places a burden on the Navajo Tribe to adhere to different sets of federal and state rules and regulations. The situation also brings about conflicting jurisdictions and responsibilities among the seven governmental entities. Additionally, the Navajo Tribe contracts directly with the DHHS-Office of Human Development Services in Washington D.C. for Low Income Home Energy Assistance Program.

The compliance with different sets of rules and regulations hinders the development and administration of a more comprehensive social service program. The objective is to provide social services in a manner that is more cost effective, flexible, and relevant to the needs of the Navajo people.

Recommendation

DHSS recommends that the three state government, the three federal regional offices, DHHS-OHDS, and the BIA work with the Navajo Tribe and streamline the fiscal and program reporting requirements. The eight governmental entities can also assist the Navajo Tribe to explore the feasibility of direct funding or delegation of a single state agency.

Issue No. 6 - Social Service Block Grant

The Navajo Tribe presently contracts with the States of Arizona and New Mexico for Social Services Block Grant (Title XX). The Title XX funding from Arizona have remained steady, however the level of funding from New Mexico has decreased over the years.

The steady funding in Arizona is attributed to the state's method of "Indian Set-Aside Funds" which reserves a certain percentage of the Title XX Allocation for the Indian tribes. Additionally, the state allocates a minimum base amount of $10,000 to every Indian tribe regardless of service population. The funding in New Mexico unfortunately is regressive. Since 1975, the Navajo Tribe has received funding reduction with no real justifications. The Navajo tribe has unsuccessfully protested the funding cuts, and at the present, the Title XX funding from New Mexico is at its lowest.

In January 1983, President Ronald Reagan released a statement on Indian policy wherein he proposed that Indian tribes be eligible for direct

funding under Social Services Block Grant (Title XX). The direct funding is ideal, however the funding formula must be equitable and adequate. If the allocation is made strictly on population, the allocation may not be adequate; therefore, it requires extensive research and planning to bring forth the most equitable funding formula for the Indian people.

Recommendation

The Division of Health & Social Service recommends that the DHHS-OHDS follow up on President Reagan's statement on direct funding to Indian tribes. If direct funding is feasible, then the DHHS-OHDS involve the Indian tribes and organizations in its determination of "Indian Set-Aside Funds" or the determination of an equitable funding formula.

Issue No. 7 - Day Care Centers

The Division of Health & Social Services presently operates three child day care centers which are located at Shiprock, New Mexico; Fort Definace, Arizona; and Chinle, Arizona. When the child day care centers are at full capacity, the centers can accommodate 350 children which is 0.16% of all children who are between the ages of 0-4 years old! According to Navajo Area Indian Health Services statistics for FY 1985, the total number of children between the ages of 0-4 years old is 21,560. Therefore, it can be said that the Navajo Tribe is weak in providing adequate child day care for children.

Recommendation

DHSS recommends that the DHHS-OHDS provide technical assistance in identifying and obtaining appropriate funds for the expansion of child day care centers on the Navajo Nation. Secondly, DHSS recommends that the Congress make every effort to increase funding for child day care and make such funds available to Indian tribes.

V. CONCLUSION

The Navajo Nation sincerely requests for a continued Congressional commitment to assist Indian families and children in a culturally relevant environment. As human service providers and policy makers, we must implement appropriate and effective strategies to reduce child abuse and neglect on Indian reservations.

SAMPLE CASE No.1

A couple sought assistance in return of their children. They state their children were taken into social services custody on March 28, 1988 and as of April 18, 1988, they had not received any notice of legal proceedings while the children remained in social services custody.

Social Services referred the case to the Prosecutor's Office on March 28, 1988 and by March 31, the Social Workers were informed that additional information was needed to appropriately initiate court proceedings. Meanwhile established legal timelines have expired, putting social services in a legal liability.

SAMPLE CASE No.2

A woman reported that her child had been sexually molested by the child's father. The hospital which received the report alerted the law enforcement, social services and BIA Investigator's office. In June 1988, the perpetrator was arrested and later released in September 1988. Mother returned to Social Services seeking legal representation as she had not been given any information regarding her child's case. The father's release caused her to fear for her child's safety. The BIA Investigator's Office was called to ascertain who in the U.S. Attorney's Office was handling her case. She was told that the investigating Officer was not in the office and no information would be available until he returned. A call to the U.S. Attorney's Office revealed that the case had not been referred to U.S. Attorney's Office.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

STATEMENT

BY

GEORGE BRENNEMAN, M.D.

MATERNAL AND CHILD HEALTH COORDINATOR

OFFICE OF HEALTH PROGRAMS

BEFORE THE

UNITED STATES SENATE

SELECT COMMITTEE

ON INDIAN AFFAIRS

NOVEMBER 22, 1988

FLAGSTAFF, ARIZONA

Mr. Chairman and Members of the Select Committee on Indian Affairs:

Thank you for this opportunity to testify on the issues of Child Abuse and Neglect (CA/N) and Child Sexual Abuse (CSA).

I am George Brenneman, a pediatrician and the Chief of the Maternal and Child Health (MCH) staff for the Indian Health Service (IHS). With me are, Dr. George McCoy, Chief, Mental Health Branch, Phoenix Area IHS, Dorothy Meyers, CNM, MCH Consultant, Phoenix Area IHS and Susan Oliver, Chief, Social Services, Whiteriver Service Unit IHS. We are pleased to represent the Indian Health Service (IHS) regarding the very important and distressing problems of Child Abuse, Neglect and Child Sexual Abuse.

The health of American Indian and Alaska Native (AI/AN) children receives priority attention by the IHS. The IHS recognizes that the well being of the AI/AN community is measured by the health of its children and the future health of the AI/AN community is secure when children of today are healthy.

The IHS provides health services through a regionalized health care system. Basic preventive and direct health care services are first provided by health workers and professionals in the field and service unit facilities. Referral, consultative and transfer linkages with secondary and tertiary facilities are then made. Within this regionalized system of health care, culturally acceptable and readily accessible preventive health care are emphasized. Today we want to share with you some of the specifics of the IHS's efforts and concerns regarding Indian child abuse and neglect.

Child abuse and neglect are priority targets in one of the 1989 IHS emphasis objectives. This IHS focus adds impetus to specific program activities being carried out by mental health, social services, alcohol and substance abuse and maternal and child health in response to Child abuse and neglect in Indian Country.

In the IHS Professional Service's Manual policies on Child Abuse and Neglect and Child Sexual Abuse are already established. These policies are currently under review and modification in order to bring them into clearer compliance with current Federal child abuse legislation, P.L. 100-294, the BIA-IHS Interagency Memorandum of Agreement (MOA), and generally accepted patient care standards promoted by professional organizations such as the American Academy of Pediatrics (AAP). In fact the proposed revised IHS policies on Child abuse and neglect are being reviewed by the AAP Advisory Subcommittee on Indian Health. Additionally, the IHS's Mental Health Program Branch is developing, in collaboration with IHS and Tribal providers, proposed policies on domestic violence. Child abuse and neglect are frequently the results of family violence which in turn are usually associated with the vicious cycle of alcoholism, depression, frustration, and unemployment, among other factors. Thus, interventions in Child abuse and neglect are ineffective and unsatisfactory unless the cycle of violence in the family unit is broken. The challenge to IHS health program professionals is to assist and

evaluate the efforts of Areas and Service Units in implementing the activities within the policies.

The IHS is cooperatively and actively involved with the BIA in addressing Indian Child abuse and neglect. The BIA-IHS MOA, mentioned to earlier, has been in effect since April 1987. This memorandum calls for interagency multidisciplinary Child Protection Teams (CPT) at the IHS-BIA Area level and in the IHS Service Unit-BIA Agency levels. Responsibilities and activities for these CPT's are specified. At the national level, the BIA-IHS Oversight Committee on Child Protection, which has BIA-IHS co-chairs, meets quarterly to review field reports and to discuss and seek solutions for a host of issues that arise in establishing effective CPTs in the field. Five IHS and eight BIA representatives serve on this committee. There are also other representatives from the Department of the Interior's Policy, Budget and Administration and the Solicitor's Offices. Beginning in FY 1989, interagency teams made up of members from the Oversight Committee will conduct Area Child Protection program evaluations. The objectives of these evaluations will be to (1) review compliance with national policies, (2) identify successful program activities, (3) identify unsuccessful program activities, (4) document effectiveness and (5) identify needs that require more involvement by headquarters. This committee is becoming an important focus for BIA and IHS to consolidate their interactions on issues of Child abuse and neglect in

Indian Country. The next quarterly meeting of the National Oversight Committee is scheduled for January 17, 18, and 19, 1989. On February 7 and 8, 1989, the committee is holding a special meeting in Washington, D.C., at which time child protection workers from the field will discuss ways to overcome the barriers to reducing of Child abuse and neglect in Indian Country.

The IHS is proposing to undertake two studies related to Indian child abuse and neglect. These are in response to the need for a better data base on which to build effective programs and evaluations. The first proposed study would evaluate, over a 2-year period, IHS's involvement at all levels and stages of the management of cases of child abuse and neglect. This information would provide the basis on which to build policy, make organizational adjustments, establish funding needs and identify training needs. The second is a proposal to examine the long-term effects of child abuse and neglect. This information would give the documentation that is necessary to strengthen prevention programs designed to increase community and employee awareness and involvement. When these proposals are approved, an interagency advisory group to the studies will be established.

Child abuse and neglect are important health problems in Indian Country. Based on our most recent statistical reports from the various Bureau of Indian Affairs (BIA) Areas, the BIA-IHS Interagency National Oversight Committee on Child Protection is aware of 5244 Indian Child Protection referrals between October 1, 1987 and July 28, 1988. About two-thirds (3419) of these were suspected neglect and 10% (527) were suspected sexual abuse.

Data from the Billings Area, for example, is especially meaningful because of the commendable, cooperative work being done by BIA and IHS workers through an active Area CPT. In fact, in the Billings Area an IHS Child Abuse and Neglect and Child Sexual Abuse policy is in place and CPT's are functioning in all eight IHS Service Units. From October 1, 1987 to July 28, 1988 the Billings Area reported 995 child protection referrals. About 60% (578) were suspected neglect and 8% (79) were suspected sexual abuse. Fifty-four percent of the reports are substantiated, giving a rate of 126 cases of child abuse and neglect per 1,000 children under 15 years of age per year.

The Phoenix Area CPT reviewed 457 cases of suspected child abuse and neglect in FY 1988. The Gila River Indian community's CPT responded by establishing the Beginning Alcohol and Addiction Basic Education Studies (BABES) program in the school program. BABES is a program designed to offer preventive alcohol and substance abuse education, and to teach positive living skills, to

children of all ages. There are currently 13 CPTs functioning in the Phoenix Area.

The treatment of victims of child abuse and neglect is within the scope of the mission and responsibility of the IHS. Programs and personnel devoted to this are under the direction of the Mental Health Branch. However, the IHS Mental Health Program branch budget only supports about two direct, core staff per service unit. Very few are trained to assist children. Additional efforts in treatment of alcohol and substance abuse to reduce family violence are under the direction of the Alcohol and Substance Abuse Branch.

Treatment of child abuse and neglect is complex, requiring a multidisciplinary team whose members work in concert at the local level. The IHS Mental Health Branch also has implemented a national team of three members to provide consultation to tribes and service units on the prevention of family violence, including child abuse and neglect. This team is located in Albuquerque, New Mexico, in the IHS Headquarters - West Office.

There are several barriers that impede accessible and effective treatment for Indian victims of child abuse and neglect. We will mention a few, but must emphasize that, these are not necessarily unique to Indian country.

a. Without community awareness and support, effective treatment cannot be provided. There is considerable evidence of denial of child abuse and neglect in Indian communities, as is true of communities in general. A portion of the correction lies within the lifestyle and community requirements and are outside the ability of the IHS to successfully intervene.

b. The family of a child victim must be willing to participate in the treatment. This is especially true if a family member is the perpetrator. It is also true, however, when the perpetrator is outside the family.

c. Effective treatment cannot be undertaken when investigations of a suspected case and judicial review are delayed. On the one hand, inappropriate treatment may be initiated without specific documented information. On the other hand, IHS providers have occassionally been advised that treatment efforts might interfere with the investigation process. One of the functions of the local CPT is to resolve these conflicts when they occur.

d. For victims of child abuse and neglect to receive effective treatment, highly trained and experienced health professionals must be

available. Additionally and most importantly, in Indian country, it is essential that these health professionals be culturally sensitive to the communities they must assist. While the IHS has a dedicated corps of professionals, finding and recruiting these specialized professionals is very difficult. Keeping IHS sufficiently staffed in this area to address the problem of child abuse and neglect is further complicated by the degree of experience needed to treat the more complex of these cases.

Presently, two situations particularly strain IHS's resources. First, it is difficult to identify available personnel for those crisis situations where a large number of children and a whole community are involved. Second, where emergency funds for mental health and other services have been made available from other resources, and these funds are then exhausted, a treatment vacuum results that is difficult for an ongoing health program to fill.

Regardless of these barriers, the IHS is committed to vigorously seeking creative ways to meet the treatment needs of Indian victims of child abuse and neglect.

In conclusion, the IHS recognizes the important health problem of child abuse and neglect affecting Indian children. It accepts responsibility to work diligently and creatively to meet the needs of these children. We also recognize that to effectively intervene in this important problem the IHS needs to cooperate with Federal, State and Tribal organizations. No one organizational entity or profession is able to prevent and treat the problem. Above all, the best interests of the children are the priority.

I will be happy to try to answer any questions the Committee may have.

STATEMENT OF WILSON BARBER, AREA DIRECTOR, PHOENIX AREA OFFICE, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE FIELD HEARING OF THE SELECT COMMITTEE ON INDIAN AFFAIRS, UNITED STATES SENATE, IN FLAGSTAFF, ARIZONA, TO PRESENT THE VIEWS OF THE BUREAU OF INDIAN AFFAIRS ON CHILD ABUSE AND NEGLECT ON INDIAN RESERVATIONS.

November 22, 1988

Good Morning Mr. Chairman. I am here today to discuss the issue of child abuse and neglect on Indian reservations, and to give you an overview of the efforts we have ongoing at the present time.

Child abuse and neglect is a growing concern within Indian Country and is beginning to receive national attention. The Assistant Secretary - Indian Affairs and the Director, Indian Health Service identify "child abuse and neglect as a multi-dimensional problem affecting the child, his family and the community ... the prevention of child abuse and neglect is to be emphasized."

Incidents such as those occurring on the Hopi, Fort Peck and Crow Creek Reservations and at the Greasewood School on the Navajo Reservation created an urgent need to address problems of child abuse and neglect. Several child protection initiatives have been established by the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS), and the Department of Health and Human Services (HHS). In an attempt to address this growing concern, the Bureau has put in place a number of initiatives.

A May 7, 1987, Memorandum of Agreement (MOA) between the IHS and the BIA provides for the establishment of Child Protection Teams (CPT's) and mandatory child abuse and neglect reporting and referral procedures. The MOA identifies specific reporting requirements and the timeframes for investigations. On a monthly basis, both BIA and IHS Area Directors are

responsible for reporting numbers, types of referrals, results of investigations and any action taken, to the BIA Central Office in Washington.

In addition, the MOA requires that the Bureau and the IHS cooperatively establish Child Protection Teams (CPT's) at both the area and local level(s). Local CPT's are encouraged to coordinate the day-to-day activity of providing direct services to abused and neglected children. Area CPT's provide general oversight to the local Child Protection Team and facilitate local CPT activities.

A national oversight committee has been established to review and analyze the effectiveness of CPT's. This committee collects and maintains CPT data for budget and policy purposes. This committee is composed of individuals from various disciplines who deal with children, e.g. Social Services, Law Enforcement, Judicial Services, Office of Alcohol and Substance Abuse, Office of the Solicitor, and Office of Policy Analysis. The IHS has representatives from Mental Health Programs Branch and Maternal and Child Health Care. This committee, which meets at least four times a year, has developed a comprehensive action plan which addresses such issues as training, staffing, data collection, resource identification, prevention, and technical assistance to Federal and tribal programs. The work of the committee has required extensive coordination especially between the BIA and IHS.

In an effort to create an awareness among various child protection providers, the BIA sponsored a National Training Conference entitled "Promoting Child Protection in Indian Country" held in Green Bay, Wisconsin, this past summer (June 1988). The diversity and level of expertise the conference presenters and speakers had to offer, and the experiences and interactions of the multi-disciplinary teams, produced a successful conference.

In order to further promote the protection of Indian children, the Assistant Secretary - Indian Affairs has concluded that the sensitivity level of Bureau employees who have regular contact with children must be upgraded to noncritical-sensitive from nonsensitive. As a result, OPM will give a higher priority to conducting background checks of these employees. Furthermore, the Division of Personnel Management also has developed additional procedures for more extensive background checks on these employees, primarily Education and Social Service personnel (Attached).

With regard to Law enforcement initiatives, six of the twelve criminal investigators that comprise the Special Investigations Unit located in Albuquerque, will devote full time to investigations of child abuse and sexual molestation cases.

Also, the Bureau has met with the FBI to encourage them to identify child abuse cases as a high priority for investigations. While we are working to develop BIA law enforcement expertise in such investigations, the FBI is an important part of the investigations. In some areas such as here in Phoenix the FBI has established these investigations as a priority. However, other areas have their own limits on staffing and priorities. Consequently, a response time to begin FBI investigations may be 30 to 90 days. This can cause severe problems in processing the cases through the courts. More importantly, a slow response jeopardizes the safety and treatment of the child victims.

In addition to a juvenile code which the Bureau was mandated by Congress to develop, we discovered that there were other areas of child protection that needed to be addressed and contracted with the National Indian Justice Center to develop a child/family protection model code which has been sent to tribal court judges throughout the country for their comment and review. The model code covers civil child abuse and neglect, child custody, foster care

licensing, guardianship, termination of parental rights and adoption proceedings. Furthermore, extensive training has been provided to court, law enforcement, and social services personnel to upgrade the skills needed to handle child abuse and neglect cases.

Finally, the Division of Social Services received an additional $1.4 million for FY-89 for child protection staffing at the tribe/agency level. However, although we have additional funding for child protection workers, because of the isolation, the BIA has critical problems in drawing experienced, educated social workers to the reservations.

In conclusion, the Bureau will continue its efforts to effectively address the child abuse and neglect problem in Indian country. However, until such time that Indian governments and its community members accept responsibility for dealing with child abuse and neglect problems, the situation will continue to remain serious.

This concludes my prepared statement. I will be happy to answer any questions the Committee may have.

U.S. Department of Justice

United States Attorney
District of Arizona

4000 United States Courthouse
Phoenix, Arizona 85025-0085

STATEMENT

OF

STEPHEN M. McNAMEE
UNITED STATES ATTORNEY
DISTRICT OF ARIZONA

BEFORE

THE

SELECT COMMITTEE ON INDIAN AFFAIRS

CONCERNING

CHILD ABUSE AND NEGLECT

ON

NOVEMBER 22, 1988

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS THE ROLE OF THE UNITED STATES ATTORNEY'S OFFICE IN THE DISTRICT OF ARIZONA IN PROSECUTING CHILD SEXUAL ABUSE OFFENSES IN INDIAN COUNTRY.

AS YOU ARE AWARE, MANY OF THE VICTIMS IN CASES PROSECUTED BY OUR OFFICE HAVE FILED SUIT AGAINST THE UNITED STATES OF AMERICA UNDER THE FEDERAL TORT CLAIMS ACT. THOSE CASES ARE CURRENTLY PENDING IN FEDERAL DISTRICT COURT IN PHOENIX, ARIZONA. ANY COMMENTS MADE BY ME TODAY ARE MY OWN VIEWPOINTS AS A PROSECUTOR EXERCISING HIS PROSECUTORIAL DUTIES UNDER FEDERAL STATUTES INCLUDING THE VICTIM WITNESS ACT. MY REMARKS ARE NOT INTENDED TO BE COMMENTS OR ADMISSIONS ABOUT THE LEGAL DUTIES OR RESPONSIBILITIES OF AGENCIES OF THE UNITED STATES IN THESE MATTERS.

IN THE LAST SEVERAL YEARS CHILD-SEXUAL ABUSE HAS BECOME AN ISSUE OF MAJOR CONCERN THROUGHOUT THE UNITED STATES. THE STATISTICS ARE ALARMING. UNFORTUNATELY, AMERICAN INDIAN COMMUNITIES ARE NOT EXEMPT FROM THE PROBLEM OF CHILD SEXUAL ABUSE. THE PROSECUTION OF THESE CASES, WHETHER AT THE STATE OR FEDERAL LEVEL, IS GOVERNED BY THE STATUTORY SCHEME AND DEFINITIONS AS WELL AS PUNISHMENTS.

ONE OF THE MAJOR STATUTORY RESPONSIBILITIES OF THE UNITED STATES ATTORNEY'S OFFICE IN THE DISTRICT OF ARIZONA IS TO PROSE-

CUTE MAJOR FEDERAL CRIMES ON INDIAN RESERVATIONS, WHICH INCLUDE CHILD SEXUAL ABUSE OFFENSES. THERE ARE 20 SEPARATE INDIAN RESERVATIONS IN ARIZONA GIVING ARIZONA ONE OF THE LARGEST INDIAN POPULATIONS IN THE COUNTRY. ONE RESERVATION ALONE, THE NAVAJO RESERVATION (LARGEST IN THE UNITED STATES), HAS A POPULATION IN ARIZONA OF NEARLY 200,000 -- INCREASING AT THE RATE OF 2% ANNUALLY.

THE INCIDENCE OF SEXUAL ABUSE OF CHILDREN WITHIN INDIAN COUNTRY IS STARTLING. SINCE SEPTEMBER, 1986, OVER 100 CASES OF CHILD SEXUAL ABUSE INVOLVING AN ESTIMATED 400-500 CHILD VICTIMS HAVE BEEN SUBMITTED TO OUR OFFICE FOR PROSECUTION. MANY OF THESE CASES INVOLVE CHILD SEXUAL ABUSE WITHIN THE FAMILY. WE HAVE ALSO DEVOTED SPECIAL ATTENTION AND RESOURCES TO THE RISING NUMBER OF CASES INVOLVING TEACHERS WHO COMMIT MULTIPLE ACTS OF MOLESTATION AND SEXUAL ABUSE ON YOUNG CHILDREN.

TO MORE CLEARLY ILLUSTRATE WHAT WE ARE ENCOUNTERING, LET ME SUMMARIZE TWO RECENT CASES PROSECUTED BY OUR OFFICE, UNITED STATES V. JOHN W. BOONE AND UNITED STATES V. J. D. TODD.

THE BOONE CASE, WHICH GAINED NATIONAL ATTENTION, INVOLVED THE MOLESTATION OF A LARGE NUMBER OF NATIVE AMERICAN INDIAN BOYS BY A NON-INDIAN TEACHER. DURING THE INVESTIGATION OF THIS CASE, THE FBI EXECUTED A SEARCH WARRANT AT THE DEFENDANT'S HOUSE AND FOUND A CHART WHICH THE DEFENDANT ADMITTED AUTHORING. THIS CHART CONTAINED THE NAMES OF 142 HOPI INDIAN CHILDREN WHO ATTENDED

SCHOOL ON THE RESERVATION AND WITH WHOM THE DEFENDANT WAS ALLEGED TO HAVE HAD CONTACT IN A SEXUAL CONTEXT. OF THE 142 NAMES, THE DEFENDANT'S CHART REVEALED THAT HE ALLEGEDLY MOLESTED AT LEAST 94 WITH THE REST AT A MINIMUM BEING VICTIMS OF THE DEFENDANT'S VOYEURISM. INTERVIEWS OF THE CHILDREN REVEALED THAT THIS WAS A LONG-TERM PROCESS POSSIBLY OCCURRING OVER A NINE-YEAR PERIOD. ADDITIONALLY, MANY OF THE CHILDREN WERE VICTIMS OF REPEATED OFFENSES.

THE TODD CASE INVOLVED OVER A DOZEN CHILDREN WHO WERE MOLESTED BY A NON-INDIAN TEACHER ON THE NAVAJO RESERVATION. TODD WAS A POPULAR TEACHER WHO TAUGHT ON THE RESERVATION FOR 21 YEARS BEFORE HE WAS ARRESTED BY THE FBI ON CHILD MOLESTATION CHARGES. IN ADDITION TO PERFORMING SEXUAL ACTS WITH YOUNG INDIAN BOYS UNDER THE AGE OF 15 YEARS, TODD SHOWED THE CHILDREN PORNOGRAPHIC FILMS AND OFFERED TO PAY MONEY TO SEVERAL CHILDREN TO PERFORM ORAL SEX WITH HIM. AGAIN, MANY OF THE CHILDREN WERE VICTIMS OF REPEATED OFFENSES.

WE SUCCESSFULLY PROSECUTED BOTH THE BOONE AND TODD CASES. BOONE PLED GUILTY TO TWO CHARGES OF AGGRAVATED SEXUAL ABUSE OF CHILDREN AND WAS SENTENCED TO LIFE IMPRISONMENT. THE CHILDREN WERE SPARED THE TRAUMA OF TESTIFYING AT A PUBLIC TRIAL. TODD WAS FOUND GUILTY AFTER A LENGTHY JURY TRIAL AND WAS SENTENCED TO 99 YEARS IN FEDERAL PRISON ON CHARGES INVOLVING SEXUAL ACTS WITH SEVERAL YOUNG MALE PUPILS.

UNFORTUNATELY, THE BOONE AND TODD CASES DO NOT REPRESENT ISOLATED INCIDENTS. TWO OTHER TEACHERS HAVE BEEN CONVICTED AND GIVEN PRISON SENTENCES RANGING FROM 15 TO 32 YEARS. TWO OTHER SIMILAR CASES ARE CURRENTLY AWAITING TRIAL, WHILE ANOTHER TEACHER RECENTLY PLED GUILTY AND IS FACING A MAXIMUM SENTENCE OF 45 YEARS IMPRISONMENT.

IN ORDER TO GAUGE THE EFFECTIVENESS OF CURRENT FEDERAL CRIMINAL STATUTES, IT IS IMPORTANT TO REVIEW THE PROGRESSION OF FEDERAL STATUTES AND THEIR APPLICATION TO MALE AND FEMALE VICTIMS AND WHETHER THE PERPETRATOR IS AN INDIAN OR NON-INDIAN. AS WE WILL SEE, THIS CAN BE A JURISDICTIONAL AND FACTUAL QUAGMIRE.

PRIOR TO MAY 5, 1986, THE PROSECUTION OF AN INDIAN FOR SEXUAL MISCONDUCT WAS GOVERNED BY 18 U.S.C. § 1153, THE MAJOR CRIMES ACT, WHICH HAD ITS ORIGINS IN THE 1800's. 18 U.S.C. § 1153 PROVIDED, IN PART, THAT IT SHALL BE UNLAWFUL FOR ANY INDIAN TO COMMIT THE FOLLOWING CRIMES AGAINST ANOTHER INDIAN OR OTHER PERSONS: RAPE, CARNAL KNOWLEDGE OF ANY FEMALE, NOT HIS WIFE, WHO HAS NOT ATTAINED THE AGE OF SIXTEEN YEARS, ASSAULT WITH INTENT TO COMMIT RAPE, AND INCEST. THUS, IF A MALE INDIAN MOLESTED A MALE CHILD WITHIN INDIAN COUNTRY, THERE WAS NO JURISDICTION TO PROSECUTE THE CASE IN FEDERAL COURT. HOWEVER, IF A NON-INDIAN MALE WERE TO COMMIT ACTS OF MOLESTATION AGAINST A MALE CHILD, THE NON-INDIAN OFFENDER COULD BE PROSECUTED UNDER 18 U.S.C. § 1152, WHICH INCORPORATES THE ASSIMILATIVE CRIMES ACT, 18 U.S.C. § 13, WHICH ALLOWED THE UNITED STATES ATTORNEY TO

PROSECUTE THE CASE UTILIZING STATE STATUTES IN THE ABSENCE OF A SPECIFIC FEDERAL STATUTE. THIS WAS THE JURISDICTIONAL BASIS ON WHICH MR. BOONE AND MR. TODD WERE PROSECUTED.

IN 1984, THE CRIME OF INVOLUNTARY SODOMY WAS ADDED TO THE MAJOR CRIMES ACT (18 U.S.C. § 1153) AS A SPECIFIC ENUMERATED CRIME. WHILE SODOMY DEALT WITH SPECIFIC ACTS, IT DID NOT DEAL WITH THE BROAD RANGE OF OTHER SEXUAL CONDUCT WHICH IS COMMON IN SEXUAL ABUSE CASES, ESPECIALLY WHERE MINORS ARE INVOLVED.

IN MAY, 1986, THE MAJOR CRIMES ACT (18 U.S.C. § 1153) WAS AGAIN AMENDED TO INCLUDE THE "FELONIOUS SEXUAL MOLESTATION OF A MINOR." THE DEFINITION AND PUNISHMENT WERE TO BE DEFINED BY STATE STATUTE IN WHICH THE OFFENSE OCCURRED (18 U.S.C. § 1153(b)). ONCE AGAIN, THIS STATUTORY ENACTMENT ONLY APPLIED TO THE PROSECUTION OF CRIMES COMMITTED BY INDIANS. NON-INDIANS WERE STILL PROSECUTED UNDER 18 U.S.C. § 1152 AND THE ASSIMILATIVE CRIMES ACT (18 U.S.C. § 13). IN ESSENCE ALL DEFENDANTS, INDIAN AND NON-INDIAN, WERE NOW BEING PROSECUTED UNDER IDENTICAL STATUTES FOR SEXUAL MOLESTATION OFFENSES, WHICH REFLECTED THE STATE STATUTE WHERE THE CRIME OCCURRED.

IN DECEMBER, 1986, THE SEXUAL ABUSE ACT OF 1986 (18 U.S.C. §§ 2241 THROUGH 2245) TOOK EFFECT AND BECAME PREEMPTIVE. THE PURPOSE OF THE ACT WAS TO ENACT AN OMNIBUS BILL THAT DEALT WITH A BROAD RANGE OF CRIMINAL SEXUAL ACTIVITIES, INCLUDING THOSE WITH CHILDREN, AND WHICH WOULD BE APPLIED UNIFORMLY TO INDIANS AND NON-INDIANS ALIKE.

THE PASSAGE OF TWO ACTS SO CLOSELY TOGETHER PRESENTED A VERY PRACTICAL PROBLEM TO PROSECUTORS WHO HAVE THE RESPONSIBILITY OF PREPARING CHARGING DOCUMENTS. THE DATE OF THE OFFENSE DETERMINED HOW THE CASE WAS TO BE CHARGED, IF AT ALL, AND THE MAXIMUM SENTENCE AVAILABLE. ONE DIFFICULTY IS THAT MOST VICTIMS ARE NOT ABLE TO SPECIFICALLY TARGET THE DATE OF THE OFFENSE. GENERALLY THE DATE OF THE OFFENSE MUST BE DETERMINED BY REFERENCE TO ANOTHER EVENT. IN THE BOONE CASE, ONE OF THE VICTIMS RECALLED THAT THE ACTS TOOK PLACE ON THE DATE THE SUPER BOWL WAS PLAYED. IN OTHER WORDS, THERE IS NO INDEPENDENT RECOLLECTION OF A SPECIFIC DATE. THE DATE OF AN OFFENSE IS A JURY QUESTION THAT MUST BE PROVED BEYOND A REASONABLE DOUBT. IF A VICTIM MISRECOLLECTS THE DATE OF THE OFFENSE, THE ALLEGED OFFENSE MAY OR MAY NOT BE A CRIME.

THE SEXUAL ABUSE ACT OF 1986 (18 U.S.C. §§ 2241 through 2245) PROVIDES PROSECUTORS WITH ADDITIONAL STATUTES TO PROSECUTE SEXUAL OFFENDERS. THAT ACT HAS BEEN AMENDED BY SECTION 7058 OF THE ANTI-DRUG ABUSE ACT OF 1988. SPECIFICALLY, THE MAXIMUM PENALTIES FOR 18 U.S.C. § 2244(a)(1) HAVE BEEN INCREASED FROM FIVE YEARS TO TEN YEARS AND THE MAXIMUM PENALTIES FOR 18 U.S.C. § 2244(a)(3) HAVE BEEN INCREASED FROM ONE YEAR TO TWO YEARS. THE SEXUAL ABUSE ACT IS MEANT TO APPLY TO A BROAD SPECTRUM OF FEDERAL ENCLAVES AND RESERVATIONS WHICH REQUIRES A STATUTE WITH GRADATIONS OF PUNISHMENT FOR A VARIETY OF CRIMINAL SEXUAL CONDUCT. HOWEVER, THE ACT MAY NEED FURTHER REFINEMENT IN LIGHT OF THE EXPERIENCES WE HAVE HAD IN THIS DISTRICT AS WELL AS OTHERS.

18 U.S.C. § 2241(c) SETS 12 YEARS AS A THRESHOLD FOR PROSECUTION. IN SOME OF THE CASES WE HAVE PROSECUTED THE SEXUAL CONTACT OCCURS SOMEWHERE BETWEEN AGES 11 AND 15. ONCE THE PERSON IS PAST 12 YEARS OF AGE, THE CASE BECOMES MATERIALLY DIFFERENT IN TERMS OF SENTENCING YET, THE ACTS OF SEXUAL CONTACT ARE THE SAME. UNDER MOST STATE STATUTES, MOLESTATION OF A CHILD EXTENDS PAST THE 12TH BIRTHDAY, USUALLY TO AGE 15. ALTHOUGH THE PENALTY UNDER 18 U.S.C. § 2244(a)(3) IS BEING INCREASED FROM A MISDEMEANOR TO A FELONY, CASE LAW AS WELL AS 18 U.S.C. § 1153, THE MAJOR CRIMES ACT, PRECLUDES THE PROSECUTION OF AN INDIAN DEFENDANT FOR A MISDEMEANOR IN FEDERAL COURT. THUS, ANY ACTS OCCURRING BETWEEN DECEMBER, 1986, AND THE SIGNING OF THE ANTI-DRUG ABUSE ACT OF 1988, WOULD BE MISDEMEANORS FOR NON-INDIANS AND TRIBAL OFFENSES FOR INDIANS.

18 U.S.C. § 2241 SPEAKS IN TERMS OF SEXUAL ACTS BY "FORCE" OR THROUGH "THREATENING" BEHAVIOR. HOWEVER, IN THE CASES INVOLVING MULTIPLE ACTS OF MOLESTATION AND CHILD ABUSE INVOLVING TEACHERS THAT WE HAVE INVESTIGATED AND PROSECUTED, THE STUDENTS WERE SEDUCED. THUS THE CASES TURNED ON THE AGE OF THE VICTIM AND WHAT STATUTE WAS IN EFFECT AT THE TIME OF THE EVENTS. HAD THE SEXUAL ABUSE ACT BEEN IN EFFECT WHEN THE TODD AND BOONE CASES WERE CONCLUDED, THE RESULT IN TERMS OF THE SENTENCE EACH DEFENDANT RECEIVED WOULD HAVE BEEN DRAMATICALLY LESS.

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18 U.S.C. §§ 2241, 2243 AND 2245 BY THEIR DEFINITIONAL TERMS DRAW THE DISTINCTION BETWEEN MALE AND FEMALE VICTIMS. UNDER 18 U.S.C. § 1153 and 18 U.S.C. § 2241(c) THE CARNAL KNOWLEDGE OF A FEMALE COULD DRAW UP TO LIFE IMPRISONMENT WHILE THE MASTURBATION OF A MALE CHILD OVER THE AGE OF 12 BY A MALE IS NOW PUNISHABLE BY UP TO TWO YEARS IN PRISON. TO MAKE THIS ILLUSTRATION MORE GRAPHIC, AN INDIVIDUAL WHO HAS CARNAL KNOWLEDGE OF A FEMALE VICTIM CAN RECEIVE UP TO LIFE IMPRISONMENT IF THE VICTIM IS UNDER 12 YEARS OF AGE AND UP TO FIVE (5) YEARS IMPRISONMENT IF THE FEMALE IS BETWEEN 12-16 YEARS OF AGE. IF, HOWEVER, THE VICTIM IS A MALE WHO IS BETWEEN 12-16 YEARS OF AGE, THE DEFENDANT CAN ONLY RECEIVE A MAXIMUM OF TWO (2) YEARS IMPRISONMENT. I AM ATTACHING A COPY OF ARIZONA REVISED STATUTE 13-1401 WHICH MAY BE HELPFUL IN REVIEWING THIS MATTER.

LASTLY, IN MY OPINION AS A PROSECUTOR, THE PUNISHMENTS IN 18 U.S.C. § 2244 SEEM LOW AND INCONSISTENT WITH MOST STATE STATUTES WHICH HAVE SIGNIFICANTLY HIGHER AND MORE ENHANCED PENALTIES, SUCH AS LONGER JAIL SENTENCES WITH MINIMUM PERIODS OF INCARCERATION FOR SERIOUS CHILD MOLESTERS AS WELL AS CONSECUTIVE SENTENCES WHERE APPROPRIATE.

HAD MR. BOONE OR MR. TODD BEEN PROSECUTED UNDER 18 U.S.C. § 2244 AND SENTENCED UNDER 18 U.S.C. § 2244, EACH COULD HAVE RECEIVED A MAXIMUM JAIL SENTENCE OF ONLY FIVE YEARS OR TEN YEARS, DEPENDING ON THE STATUTE IN PLACE AT THE TIME OF THE OFFENSE.

STUDIES SHOW THAT THERE IS NO DOCUMENTED CASE WHERE A FIXATED PEDOPHILE OFFENDER HAS BEEN CURED. IT WOULD APPEAR THAT LONGER PERIODS OF INCARCERATION MAY BE APPROPRIATE IN SERIAL MOLESTATION CASES. THE LENGTHY PRISON SENTENCE RECEIVED BY MR. BOONE AND MR. TODD WERE THE RESULT OF SEXUAL CONTACT COMMITTED PRIOR TO THE ENACTMENT OF THE SEXUAL ABUSE ACT.

CASE STATISTICS AND PROSECUTIONS DO NOT TELL THE ENTIRE STORY. EACH CASE CARRIES ITS OWN PERSONAL STORY OF TRAGEDY. THESE CRIMES AFFECT NOT ONLY THE CHILDREN, BUT THEIR FAMILIES, FRIENDS AND OFTEN THE ENTIRE INDIAN COMMUNITY. THERE IS NOW A NEED FOR COMPREHENSIVE TREATMENT PROGRAMS TO HELP REBUILD THE SHATTERED LIVES OF MANY OF THESE VICTIMS. UNFORTUNATELY, PROGRAMS THAT COULD ASSIST IN THIS ENDEAVOR ARE VIRTUALLY NON-EXISTENT ON RESERVATIONS. RESERVATIONS ARE FREQUENTLY LOCATED IN REMOTE AREAS, HUNDREDS OF MILES FROM METROPOLITAN COMMUNITIES WHERE SUCH PROGRAMS DO EXIST. MANY LIVE IN REMOTE AREAS WITH NO TELEPHONES OR EASY ACCESS TO TRANSPORTATION. MOST RESERVATIONS LACK FINANCIAL RESOURCES TO ESTABLISH THEIR OWN SEXUAL ABUSE TREATMENT PROGRAMS. THUS, VICTIMS OF CHILD SEXUAL ABUSE ARE OFTEN LEFT WITH NO ALTERNATIVES TO RECEIVE THERAPEUTIC INTERVENTION FREQUENTLY NECESSARY IF THEY ARE TO RECOVER FROM THE EFFECTS OF THE CRIME. WE ARE NOW SEEING A RISE IN CASES INVOLVING ADOLESCENT OFFENDERS WHO HAVE BEEN VICTIMS THEMSELVES OF CHILD SEXUAL ABUSE ON RESERVATIONS.

THE DEPARTMENT OF JUSTICE OFFICE FOR VICTIMS OF CRIME, IN PARTICULAR ASSISTANT ATTORNEY GENERAL RICHARD B. ABELL AND DR. JANE BURNLEY, DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME, HAVE TAKEN A PERSONAL INTEREST IN BRINGING CRISIS COUNSELING AND THERAPY TO SUCH VICTIMS. THEY HAVE DEMONSTRATED THEIR COMMITMENT TO NATIVE AMERICAN CRIME VICTIMS IN INDIAN COUNTRY THROUGH THE EXPENDITURE OF MONIES FROM THE VICTIMS OF CRIME ACT FUND. THE OFFICE FOR VICTIMS OF CRIME HAS PROVIDED FUNDS FOR EMERGENCY SERVICES AND HAS INITIATED A NEW GRANT PROGRAM WHICH WILL ASSIST MANY TRIBES TO ESTABLISH BASIC VICTIMS' SERVICES ON RESERVATIONS. HOWEVER, BECAUSE THE AMOUNT OF MONEY FROM THIS FUND CURRENTLY AVAILABLE TO PROVIDE SERVICES TO ALL FEDERAL VICTIMS OF CRIME IS FINITE, THIS ASSISTANCE CAN ONLY BE SHORT-TERM. A MECHANISM SHOULD BE DEVELOPED IN THE APPROPRIATE AGENCY WITH THE RESOURCES TO PROVIDE THE LONG-TERM TREATMENT REQUIRED BY MANY CHILD SEXUAL ABUSE VICTIMS ON RESERVATIONS.

CHILD SEXUAL ABUSE ON RESERVATIONS IS NOT A PASSING PHENOMENON. IT WILL REMAIN A SIGNIFICANT CHALLENGE AND RESPONSIBILITY FOR UNITED STATES ATTORNEYS TO AGGRESSIVELY PROSECUTE OFFENDERS TO THE FULLEST EXTENT OF THE LAW.

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
1717 West Jefferson • P.O. Box 6123 • Phoenix, Arizona 85005

Rose Mofford
Governor

Eddie F. Brown
Director

DR. EDDIE F. BROWN, DIRECTOR

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

TESTIMONY FOR THE HEARING ON INDIAN CHILD ABUSE AND NEGLECT

UNITED STATES SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

NOVEMBER 22, 1988

MY NAME IS EDDIE BROWN. I AM THE DIRECTOR OF THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY (DES). I AM ALSO AN ENROLLED MEMBER OF THE PASCUA YAQUI TRIBE.

INDIAN TRIBAL GOVERNMENTS AND INDIAN COMMUNITIES, LIKE ALL OTHER COMMUNITIES IN OUR SOCIETY, ARE STRUGGLING WITH DIFFICULT ISSUES OF CHILD ABUSE AND NEGLECT. IT HAS ONLY BEEN GRADUALLY DURING THE PAST FIFTEEN YEARS THAT TRIBAL GOVERNMENTS IN ARIZONA HAVE OBTAINED FUNDING FROM THE FEDERAL GOVERNMENT TO OPERATE SOCIAL SERVICES, COURTS AND LAW ENFORCEMENT SYSTEMS ON INDIAN LANDS. TRIBES HAVE HAD TO MEET MANY CHALLENGES IN DEVELOPING, IMPLEMENTING, OPERATING AND FINANCING THEIR SERVICE AND GOVERNMENTAL SYSTEMS. TRIBES HAVE BEEN FACED WITH THE CHALLENGES OF PROVIDING SERVICES TO POPULATIONS THAT ARE RURAL AND ISOLATED, THAT EXPERIENCE HIGH RATES OF UNEMPLOYMENT AND POVERTY, AND WHERE ALMOST HALF THE POPULATION IS UNDER THE AGE OF EIGHTEEN.

AT THE SAME TIME, TRIBES HAVE HAD TO COPE WITH UNCERTAIN FUNDING FOR SELF-DETERMINATION CONTRACTS, AND WITH INADEQUATE DISCRETIONARY INDIAN CHILD WELFARE ACT GRANTS. IT MUST BE POINTED OUT THAT FUNDING TO STATES TO WHICH TRIBES HAVE LITTLE OR NO ACCESS, UNDER TITLE IV OF THE SOCIAL SECURITY ACT FOR CHILD WELFARE SERVICES IS TREATED AS AN ENTITLEMENT, BUT FUNDING TO TRIBAL GOVERNMENTS TO MEET SIMILAR RESPONSIBILITIES IS DEPENDENT UPON ANNUAL APPROPRIATIONS THAT OFTEN COMPETE FOR MANY OTHER PRIORITIES IN THE BUREAU OF INDIAN AFFAIRS (BIA) BUDGET.

IN ADDITION, TRIBAL GOVERNMENTS HAVE NOT ALWAYS HAD ACCESS TO TECHNICAL ASSISTANCE IN THE AREAS OF SOCIAL SERVICES PROGRAM DEVELOPMENT. TRIBES HAVE HAD TO DEVELOP SYSTEMS FOR CHILD PROTECTIVE SERVICES, FOSTER HOME RECRUITMENT AND LICENSING, ADOPTION PROCEDURES, CRISIS INTERVENTION, FAMILY THERAPY AND CASE-WORK, OFTEN WITH LITTLE OR NO GUIDANCE. DES HAS WORKED CLOSELY WITH TRIBAL GOVERNMENTS AND WITH THE INTER-TRIBAL COUNCIL OF ARIZONA TO PROVIDE TECHNICAL ASSISTANCE TO TRIBES, TO PASS THROUGH FEDERAL FUNDS TO TRIBES AND TO BUILD THE CAPACITY OF TRIBAL AND STATE GOVERNMENT TO COOPERATE IN MANY AREAS, INCLUDING CHILD WELFARE SERVICES.

TRIBAL AND STATE CAPACITY BUILDING

DES WORKS WITH TRIBAL GOVERNMENTS, WITH THE INTER-TRIBAL COUNCIL OF ARIZONA, AND WITH THE ARIZONA STATE UNIVERSITY (ASU) SCHOOL OF SOCIAL WORK TO ASSIST TRIBES TO BUILD THEIR CAPABILITIES TO DELIVER CHILD WELFARE SERVICES ON INDIAN LANDS. THESE JOINT EFFORTS INCLUDE:

- A PERMANENT INDIAN CHILD WELFARE SPECIALIST POSITION WITHIN DES TO COORDINATE SERVICES FOR INDIAN CHILDREN AND TO DEVELOP AGREEMENTS BETWEEN THE STATE AND TRIBES REGARDING CHILD PROTECTIVE SERVICES AND CHILD CUSTODY PROCEEDINGS.
- A TRIBAL CHILD PROTECTIVE SERVICE ACADEMY, WHICH TRAINED 35 TRIBAL WORKERS IN 1987. THE TWO-WEEK ACADEMY IS AGAIN SCHEDULED FOR DECEMBER OF THIS YEAR.
- STATE FUNDING FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS FOR TWELVE TRIBES SINCE 1985. THESE GRANTS HAVE FUNDED A VARIETY OF LOCALLY-DESIGNED SERVICES INCLUDING PARENTING SKILLS TRAINING, FOSTER HOME RECRUITMENT AND STUDIES, FAMILY COUNSELING AND IN-HOME SUPPORT SERVICES.
- CO-SPONSORSHIP OF AN ANNUAL INDIAN CHILD AND FAMILY SERVICES CONFERENCE TO TRAIN STATE AND TRIBAL STAFF, AND TO DEFINE TRIBAL, STATE AND FEDERAL ROLES IN THE PROVISION OF SERVICES TO INDIAN FAMILIES. OUR SIXTH ANNUAL CONFERENCE WILL TAKE PLACE ON DECEMBER 14 AND 15.

- A JOINT PROJECT WITH THE INTER-TRIBAL COUNCIL OF ARIZONA AND THE ASU SCHOOL OF SOCIAL WORK TO DEVELOP A MODEL CURRICULUM FOR INDIAN CHILD WELFARE SERVICES. THIS CURRICULUM PROJECT WILL IDENTIFY BASIC KNOWLEDGE AND SKILLS THAT ARE NEEDED BY CHILD WELFARE WORKERS SERVING INDIAN COMMUNITIES IN THE AREAS OF CULTURAL VALUES, SOCIAL POLICY, THEORY BASE AND FAMILY PRACTICE.
- THE USE OF A FORMAL INTERGOVERNMENTAL AGREEMENT TO PASS THROUGH FEDERAL TITLE IV-E (AFDC FOSTER CARE) FUNDS TO THE GILA RIVER INDIAN COMMUNITY.
- FORMAL INTERGOVERNMENTAL AGREEMENTS WITH THE NAVAJO TRIBE AND THE GILA RIVER INDIAN COMMUNITY WHICH SPELL OUT PROCEDURES FOR COORDINATION BETWEEN STATE AND TRIBAL WORKERS REGARDING CHILD PROTECTIVE SERVICES AND CHILD CUSTODY PROCEEDINGS. SIMILAR AGREEMENTS WITH TWO OTHER TRIBES IN ARIZONA ARE PENDING.

WE VIEW THE CHILD WELFARE INTERGOVERNMENTAL AGREEMENTS AS MODELS OF STATE/TRIBAL COOPERATION. THE STATE OF ARIZONA RECOGNIZES THE LEGAL AND POLITICAL STATUS OF INDIAN TRIBAL GOVERNMENTS. THE STATE DOES NOT HAVE CRIMINAL OR CIVIL JURISDICTION OVER INDIAN CHILD WELFARE MATTERS ON TRIBAL LANDS. THESE AGREEMENTS CLEARLY SPELL OUT PROCEDURES FOR CHILD PROTECTIVE SERVICES AND CHILD CUSTODY PROCEEDINGS FOR NAVAJO CHILDREN BOTH ON AND OFF INDIAN LANDS.

THESE AGREEMENTS ARE NOTEWORTHY BECAUSE THE STATE HAS CHOSEN TO WORK WITH INDIVIDUAL TRIBAL GOVERNMENTS TO DEVELOP COOPERATIVE WORKING RELATIONSHIPS, AS OPPOSED TO WORKING OUT A "GENERIC" AGREEMENT WITH ALL TWENTY TRIBAL GOVERNMENTS IN ARIZONA. IN THE PROCESS OF NEGOTIATING THESE AGREEMENTS, STATE WORKERS HAVE BECOME FAMILIAR WITH TRIBAL SOCIAL SERVICES, LAW ENFORCEMENT AND COURT SYSTEMS, AND TRIBAL WORKERS HAVE BECOME FAMILIAR WITH STATE SYSTEMS. THIS WORKING KNOWLEDGE OF SYSTEMS AND SERVICE NETWORKS LEADS TO IMPROVED INTER-GOVERNMENTAL COOPERATION. AN IMPORTANT PRINCIPLE IS THAT THE STATE AND THE TRIBAL GOVERNMENTS HAVE APPROACHED THESE NEGOTIATIONS IN A COOPERATIVE SPIRIT,

WITH FULL ACCEPTANCE OF THE LEGAL AND POLITICAL STATUS OF THE STATE AND TRIBAL GOVERNMENTS AND WITH THE GOAL OF WORKING OUT PRACTICAL APPROACHES TO CHILD WELFARE SERVICES WITHIN A FRAMEWORK THAT DOES NOT JEOPARDIZE TRIBAL JURISDICTION.

PROBLEMS OF SEXUAL ABUSE IN FEDERAL SCHOOLS

SEVERAL CASES OF SEXUAL ABUSE OF INDIAN CHILDREN BY NON-INDIAN EMPLOYEES IN FEDERAL BUREAU OF INDIAN AFFAIRS SCHOOLS HAVE BEEN WIDELY PUBLICIZED. THE FEDERAL EMPLOYEES IN THOSE CASES WERE PROSECUTED AND ARE CURRENTLY SERVING PRISON SENTENCES. HOWEVER, THE SUFFERING OF THE VICTIMS CONTINUES. RESOURCES ARE NEEDED TO PROVIDE THERAPY FOR THE CHILDREN AND FAMILIES THAT HAVE BEEN AFFECTED BY SEXUAL ABUSE TO HELP THE CHILDREN AND FAMILIES WORK THROUGH THE TRAUMA AND TO RESUME HEALTHY LIVES. MENTAL HEALTH RESOURCES NEED TO BE COORDINATED BETWEEN THE TRIBES, THE BIA, THE INDIAN HEALTH SERVICE AND THE STATE OF ARIZONA. THE TREATMENT SERVICES THAT ARE PROVIDED NEED TO BE CULTURALLY APPROPRIATE, ESPECIALLY FOR THOSE TRIBAL COMMUNITIES THAT MAINTAIN STRONG TRADITIONAL BELIEFS.

TOO OFTEN, HIGHLY PUBLICIZED CASES OF CHILD ABUSE ON INDIAN LANDS LEAD PEOPLE TO JUMP TO THE CONCLUSION THAT CHILD ABUSE IS RAMPANT ON INDIAN LANDS, AND THAT IT HAS SOMETHING TO DO WITH LIVING IN AN INDIAN COMMUNITY. BASED UPON MY EXPERIENCE AND KNOWLEDGE AS A SOCIAL WORKER, A TEACHER AND AN ADMINISTRATOR, I REJECT THESE INTERPRETATIONS. IN THE PAST SEVERAL YEARS, SEVERAL CASES OF SEXUAL ABUSE OF CHILDREN BY SCHOOL EMPLOYEES HAVE BEEN REPORTED IN NON-INDIAN COMMUNITIES IN ARIZONA. WHILE THIS IS A VERY SERIOUS PROBLEM, THIS DOES NOT MEAN THAT PEOPLE IN THOSE COMMUNITIES ARE RACIALLY OR CULTURALLY INFERIOR TO ALL OTHER PEOPLE. THESE TYPES OF ILL-FOUNDED CONCLUSIONS IN NO WAY CONTRIBUTE TO A POSITIVE RESPONSE TO THESE VERY SERIOUS PROBLEMS.

IT IS IMPORTANT THAT WE TAKE A CLOSER LOOK AT HOW THE BUREAU OF INDIAN AFFAIRS SCHOOLS ARE ADMINISTERED. THESE SCHOOLS ARE OPERATED WITH FEDERAL FUNDS WHILE BUREAU SCHOOLS ARE NOMINALLY CONTROLLED BY LOCAL SCHOOL BOARDS. IN FACT, THE CONTROL LIES IN THE BUREAU'S BUDGET PROCESS (THE INDIAN SCHOOL EQUALIZATION FORMULA). THE SCHOOL BOARDS HAVE THE AUTHORITY TO FIRE POOR EMPLOYEES, BUT THE BOARDS DO NOT HAVE THE FUNDS TO ATTRACT THE BEST TEACHERS, COUNSELORS AND ADMINISTRATORS. ON AN AVERAGE, BUREAU TEACHER SALARIES ARE APPROXIMATELY $3,000 LESS THAN COMPARABLE PUBLIC SCHOOL SALARIES. FUNDS THAT A SCHOOL BOARD WOULD TRY TO SPEND FOR INCREASED TEACHER SALARIES MUST BE TAKEN OUT OF FUNDS THAT WOULD OTHERWISE BE SPENT FOR EXTRAORDINARY TRANSPORTATION, TEACHER HOUSING AND MAINTENANCE COSTS IN VERY RURAL AND OFTEN ISOLATED AREAS. LEGISLATION ENACTED BY THE 100TH CONGRESS CALLS FOR A STUDY COMPARING BUREAU SALARIES WITH OTHER SYSTEMS, INCLUDING DEPARTMENT OF DEFENSE DOMESTIC SCHOOL SYSTEMS. THE RESULTS OF THIS STUDY SHOULD BE CAREFULLY REVIEWED BY THE CONGRESS.

PUBLIC LAW 95-561 CREATED AN ORGANIZATIONAL SEPARATION BETWEEN THE BUREAU DIVISION OF INDIAN EDUCATION AND ALL OTHER DIVISIONS IN THE BUREAU OF INDIAN AFFAIRS. THEREFORE, BUREAU EDUCATION PROGRAMS ARE NOT COORDINATED WITH BUREAU SOCIAL SERVICES OR LAW ENFORCEMENT SYSTEMS. FURTHERMORE, BUREAU SCHOOLS, BECAUSE OF THEIR SEPARATE STATUS, ARE OFTEN NOT COORDINATED WITH TRIBAL SOCIAL SERVICES OR LAW ENFORCEMENT SYSTEMS. THIS LACK OF COORDINATION WITH TRIBAL GOVERNMENTS AND WITH THE LARGER FEDERAL STRUCTURE INVITES A LACK OF ACCOUNTABILITY, INCLUDING A LACK OF COMPLETE BACKGROUND INVESTIGATIONS OF PERSONNEL APPLICANTS. CLEARLY, THERE NEEDS TO BE BETTER ACCOUNTABILITY BY BUREAU SCHOOLS TO THE LOCAL INDIAN COMMUNITIES, ESPECIALLY TO THE PARENTS.

CHILD ABUSE AND NEGLECT IN INDIAN COMMUNITIES

AS THE DIRECTOR OF DES, AND AS A FORMER DIRECTOR OF THE BUREAU'S SOCIAL SERVICE PROGRAM, I HAVE HAD MUCH EXPERIENCE IN LOOKING AT PROBLEMS OF CHILD

ABUSE AND NEGLECT ON INDIAN LANDS. FROM WORKING WITH TRIBAL SOCIAL WORKERS, COURT JUDGES AND POLICE, AND FROM STUDIES CONDUCTED BY THE INTER-TRIBAL COUNCIL OF ARIZONA, WE FIND THAT CHILD NEGLECT IS MUCH MORE COMMON ON INDIAN LANDS THAN ACTUAL PHYSICAL ABUSE. IT SHOULD ALSO BE NOTED THAT CHILD NEGLECT IS CLOSELY RELATED TO POVERTY, HIGH RATES OF UNEMPLOYMENT, AND A LACK OF FAMILY RESOURCES FOR ADEQUATE HOUSING, NUTRITION, CLOTHING AND UTILITIES. FOR EXAMPLE, IN 1986, THE PHYSICIAN'S TASK FORCE ON HUNGER IDENTIFIED BOTH COCONINO AND NAVAJO COUNTIES IN ARIZONA AS "HUNGER COUNTIES," MEANING THAT MORE THAN 20% OF THE RESIDENTS IN THESE COUNTIES HAVE ANNUAL FAMILY INCOMES BELOW THE FEDERAL POVERTY LEVEL, AND FEWER THAN 1/3 OF ELIGIBLE RESIDENTS RECEIVE FOOD STAMPS OR BENEFITS THROUGH THE TRIBAL COMMODITY PROGRAMS. DES IS CURRENTLY EXPLORING WAYS TO OVERCOME OBSTACLES TO PROVIDING NUTRITION BENEFITS IN COCONINO AND NAVAJO COUNTIES. THE UNEMPLOYMENT RATE ON THE NAVAJO RESERVATION IS 49% AND THE UNEMPLOYMENT RATE ON THE HOPI RESERVATION IS 42% (BIA LABOR FORCE ESTIMATES, JANUARY 1987.)

INDIAN COMMUNITIES HAVE THE SAME NEEDS AND WANTS AS ALL OTHER COMMUNITIES: PARTICIPATION BY ITS MEMBERS IN SOCIALLY AND ECONOMICALLY PRODUCTIVE ACTIVITIES; A COMMITMENT TO FAMILY VALUES; SHARING OF PARENTING SKILLS; AND SUPPORT FOR DISTRESSED FAMILIES. A STRONG COMMITMENT TO FAMILY VALUES IS EMBODIED IN THE INDIAN CHILD WELFARE ACT. DES SHARES WITH TRIBAL COMMUNITIES THE VALUE THAT THE FAMILY IS THE INSTITUTION OF SOCIETY BEST ABLE TO MEET THE NEEDS OF THE FAMILY'S MEMBERS. I TAKE PERSONAL PRIDE IN THE FACT THAT SO MANY INDIAN FAMILIES IN ARIZONA HAVE MANAGED TO STAY TOGETHER, TO RAISE HEALTHY CHILDREN, TO CARE FOR THEIR ELDERLY AND TO PROSPER, IN SPITE OF TREMENDOUS AND OFTEN ADVERSE POLITICAL SOCIAL AND CULTURAL PRESSURES.

TRIBAL GOVERNMENTS HAVE IN THE PAST DECADE BEGUN TO OPERATE THEIR OWN SOCIAL SERVICES SYSTEMS WITH FUNDING FROM THE BUREAU OF INDIAN AFFAIRS. AS

TRIBES HAVE TAKEN OVER THESE FUNCTIONS FROM THE FEDERAL GOVERNMENT, TRIBES HAVE INVARIABLY CHANGED THE FOCUS OF SERVICES. IN THE PAST, ONE OF THE PRIMARY FUNCTIONS OF BUREAU OF INDIAN AFFAIRS SOCIAL SERVICES ON INDIAN LANDS WAS TO PLACE CHILDREN IN OUT-OF-HOME PLACEMENTS OFF THE RESERVATION. THIS WAS A CONTINUATION OF THE HISTORIC POLICY OF REMOVING INDIAN CHILDREN FROM THEIR FAMILIES, THEIR COMMUNITIES AND THEIR CULTURES IN AN ATTEMPT TO FORCE ASSIMILATION INTO THE NON-INDIAN SOCIETY.

AS TRIBES HAVE TAKEN OVER THESE SYSTEMS, HOWEVER, THEY HAVE EMPHASIZED SERVICES TO THE FAMILY, INCLUDING SUPPORT SERVICES TO MAINTAIN THE FAMILY. THERE ARE MANY INDIAN COMMUNITIES WHERE CHILDREN HAVE GONE TO FEDERAL BOARDING SCHOOLS. PARTICULARLY WHERE CHILDREN WERE PLACED IN BOARDING SCHOOLS AS YOUNG AS AGE SIX, THESE PEOPLE MISSED THE OPPORTUNITY OF GROWING UP IN FAMILIES, WHICH IS WHERE FAMILY VALUES AND PARENTING SKILLS ARE LEARNED. MANY INDIAN PEOPLE WHO ARE NOW GRANDPARENTS WERE TAKEN AWAY FROM THEIR HOMES AT A YOUNG AGE AND DID NOT RETURN TO THEIR HOMES FOR MANY YEARS. OFTEN, THESE SAME FAMILIES WOULD, IN TURN, SEND THEIR CHILDREN AWAY TO BOARDING SCHOOLS. MANY FAMILIES HAVE SEEN THEIR CHILDREN GROW UP ONLY DURING SUMMER VACATIONS FROM SCHOOL. AS A RESULT, SEVERAL GENERATIONS OF FAMILIES IN MANY COMMUNITIES HAVE MISSED THE OPPORTUNITY TO LEARN BASIC PARENTING SKILLS SUCH AS COMMUNICATION, GUIDANCE AND DISCIPLINE. WITH THE CLOSING OF FEDERAL BOARDING SCHOOLS DURING THE PAST EIGHT YEARS, THE FAMILY PATTERN OF HAVING THE BOARDING SCHOOLS RAISE THE CHILDREN HAS BEEN BROKEN, BUT NO SUPPORT SERVICES HAVE BEEN OFFERED TO HELP FAMILIES REBUILD THEIR PARENTING AND LIVING SKILLS. THEREFORE, TRIBAL SOCIAL SERVICES WORKERS ARE FACED WITH INCREASING DEMANDS FOR CHILD WELFARE AND FAMILY SERVICES THAT NEVER BEFORE EXISTED ON INDIAN LANDS.

UNTIL SCHOOLS ARE BUILT AND OPERATED IN ALL COMMUNITIES ON INDIAN LANDS, THERE WILL BE A CONTINUED NEED FOR BOARDING SCHOOLS AND DORMITORY BOARDING FACILITIES. HOWEVER, THESE SCHOOLS HAVE OFTEN BEEN ASKED BOTH TO EDUCATE INDIAN CHILDREN AND TO ADDRESS THEIR SOCIAL NEEDS WITHOUT ADEQUATE RESOURCES FOR BOTH FUNCTIONS. BOARDING SCHOOLS HAVE HISTORICALLY PROVIDED AN EDUCATION TO MANY INDIAN PEOPLE, AND IN MANY WAYS HAVE PERFORMED VALUABLE SERVICES FOR INDIAN COMMUNITIES. BUT IN THE CONTINUED OPERATION OF BOARDING SCHOOLS, THE NEEDS OF THE ENTIRE INDIAN FAMILY NEED TO BE CONSIDERED IN THE PLANNING AND OPERATION OF THE BOARDING SCHOOL PROGRAM.

RECOMMENDATIONS

FIRST, FEDERAL POLICY MAKERS NEED TO BEGIN TO RECOGNIZE THAT RURAL, UNDER-DEVELOPED INDIAN RESERVATION COMMUNITIES NEED A POLICY OF INTEGRATED SOCIAL AND ECONOMIC DEVELOPMENT. TOO OFTEN, FEDERAL POLICY MAKERS VIEW INDIAN ECONOMIC DEVELOPMENT AND HUMAN SERVICES AS EITHER/OR CHOICES. ECONOMIC DEVELOPMENT WILL NOT BE SUCCESSFUL IN INDIAN COMMUNITIES WHERE FAMILIES ARE EXPERIENCING UNRESOLVED PROBLEMS OF FAMILY BREAKUP AND CHILD NEGLECT, AND WHERE NUTRITIONAL RESOURCES ARE INSUFFICIENT TO MEET THE NEEDS OF PREGNANT MOTHERS AND INFANTS, SCHOOL CHILDREN, AND WORKERS. IN ADDITION, THE CHANGES FROM A SUBSISTENCE ECONOMY OR A TRANSFER PAYMENTS ECONOMY TO A WAGE-LABOR AND CONSUMER ECONOMY IN ITSELF CREATES NEW SOCIAL NEEDS. FOR EXAMPLE, FAMILY MEMBERS WHO HAD PREVIOUSLY CARED FOR DEPENDENT CHILDREN AND ELDERLY FAMILY MEMBERS ARE NO LONGER ABLE TO PROVIDE THAT CARE BY THEMSELVES IF THEY ALSO MUST WORK OUT-SIDE THE HOME. THEREFORE, SUPPORT SERVICES SUCH AS DAY CARE ARE NEEDED IN ORDER TO ENABLE FAMILY MEMBERS TO PARTICIPATE SUCCESSFULLY IN THE LABOR FORCE.

SECONDLY, INDIAN TRIBAL GOVERNMENTS NEED PERMANENT AND STABLE FUNDING FOR SOCIAL SERVICES, LAW ENFORCEMENT AND COURTS. FUNDS TO THE STATE OF ARIZONA UNDER TITLE IV OF THE SOCIAL SECURITY ACT ARE TREATED AS ENTITLEMENTS, BUT FUNDS FOR TRIBAL PROGRAMS, OPERATED UNDER SELF-DETERMINATION CONTRACTS, ARE SUBJECT TO THE ANNUAL BIA BUDGET PROCESS, WHICH TOO OFTEN RESULTS IN ANNUAL BUDGET UNCERTAINTIES. FUNDING FOR INDIAN CHILD WELFARE ACT GRANTS IS ONLY $8,810,000 FOR FISCAL YEAR 1988 TO PROVIDE CHILD WELFARE SERVICES ON INDIAN LANDS IN 26 STATES. TRIBES ARE FORCED TO COMPETE FOR THESE GRANTS, AND THERE IS NO GUARANTEE OF CONTINUED FUNDING. TRIBES ARE WELL AWARE, HOWEVER, THAT THE CHILD WELFARE NEEDS DO NOT DISAPPEAR WHEN THE DISCRETIONARY FUNDING ENDS. THE FEDERAL GOVERNMENT NEEDS TO FUND CHILD WELFARE SERVICES AS AN IMPORTANT AND PERMANENT PART OF TRIBAL SOCIAL SERVICES, JUDICIAL AND LAW ENFORCEMENT SYSTEMS.

THIRDLY, THERE IS A NEED FOR BETTER COORDINATION BETWEEN THE BIA EDUCATION SYSTEM AND OTHER COMPONENTS OF THE BUREAU, AND BETWEEN THE BIA AND THE TRIBES, THE INDIAN HEALTH SERVICE AND THE STATE. THE FEDERAL AGENCIES NEED TO RECOGNIZE THE IMPORTANCE AND NECESSITY OF WORKING WITH TRIBAL GOVERNMENTS IN THE AREAS OF CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT SERVICES. THE BIA AND IHS HAVE DEVELOPED A CHILD PROTECTION TEAMS (CPT) POLICY TO RESPOND TO REPORTS OF CHILD ABUSE AND NEGLECT ON INDIAN LANDS. HOWEVER, THIS POLICY APPEARS TO NEGLECT THE FACT THAT NINETEEN OF THE TWENTY TRIBAL GOVERNMENTS IN ARIZONA OPERATE THEIR OWN SOCIAL SERVICES PROGRAMS. THE APPROACH THAT THE DES ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES HAS TAKEN IN WORKING OUT INTERGOVERNMENTAL AGREEMENTS AND WORKING ARRANGEMENTS WITH INDIVIDUAL TRIBAL GOVERNMENTS IN ARIZONA COULD SERVE AS A MODEL FOR DEVELOPING A COORDINATED, INTERGOVERNMENTAL APPROACH TO CHILD ABUSE AND NEGLECT ON INDIAN LANDS. DES IS WILLING AND COMMITTED TO CONTINUE WORKING WITH TRIBAL GOVERNMENTS AND FEDERAL AGENCIES TO MEET THE NEEDS OF ALL CHILDREN IN ARIZONA.

FINALLY, IT IS MY HOPE THAT AS THE SELECT COMMITTEE ON INDIAN AFFAIRS CONSIDERS AMENDMENTS TO THE INDIAN CHILD WELFARE ACT, THAT IT MOVE BEYOND AMENDMENTS DEALING EXCLUSIVELY WITH JURISDICTION. WE RECOMMEND THAT THE COMMITTEE CONSIDER THE PRACTICAL APPROACH THAT THE STATE AND TRIBES HAVE TAKEN IN ARIZONA TO DEVELOP SERVICE SYSTEMS THAT RESPOND TO INDIAN CHILD WELFARE NEEDS. WE FURTHER RECOMMEND THAT THE COMMITTEE WORK CLOSELY WITH TRIBAL SOCIAL SERVICES EXPERTS ON ANY PROPOSED AMENDMENTS IN AN EFFORT TO ADDRESS PRACTICAL NEEDS FOR RESOURCES, TECHNICAL ASSISTANCE AND STATE/TRIBAL INTERGOVERNMENTAL COOPERATION.

INTER TRIBAL COUNCIL of ARIZONA, INC.

MEMBER TRIBES
AK CHIN COMMUNITY
CAMP VERDE YAVAPAI APACHE
INDIAN COMMUNITY
COCOPAH TRIBE
COLORADO RIVER INDIAN TRIBES
FORT McDOWELL YAVAPAI TRIBE
FORT MOJAVE TRIBE
GILA RIVER INDIAN COMMUNITY
HAVASUPAI TRIBE
HOPI TRIBE
HUALAPAI TRIBE
KAIBAB PAIUTE TRIBE
PAPAGO TRIBE
PASCUA YAQUI TRIBE
QUECHAN TRIBE
SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY
SAN CARLOS APACHE TRIBE
TONTO APACHE TRIBE
WHITE MOUNTAIN APACHE TRIBE
YAVAPAI PRESCOTT INDIAN TRIBE

Senate Select Committee on Indian Affairs
Public Hearing on
Child Abuse and Neglect on Indian Reservations

Tuesday, November 22, 1988

Statement of the Inter Tribal Council of Arizona, Inc.
John R. Lewis
Executive Director

124 West Thomas Road • Suite 201 • Phoenix, Arizona 85013 • (602) 248-0071

Senate Select Committee on Indian Affairs
Child Abuse and Neglect on Indian Reservations
Public Hearing in Flagstaff
Tuesday, November 22, 1988

Statement of John R. Lewis

My name is John R. Lewis. I am the Executive Director of the Inter Tribal Council of Arizona, Inc. The Inter Tribal Council of Arizona, Inc., is an organization established to serve the Arizona tribes by providing a forum that addresses issues of common concern to the tribes. I appreciate the opportunity you have provided me to address child abuse and neglect on Arizona Indian reservations.

The involvement of our organization in children's issues dates back to our incorporation in the mid-1970's, when we actively participated in a State of the Field Study on Indian Child Welfare which resulted in the passage of the Indian Child Welfare Act in 1978. In supporting that legislation, tribal governments made a statement to the Congress of the United States that decisions to protect the interests of Indian children can best be made by the tribes and Indian families to whom the children belong.

Since enactment of the Indian Child Welfare Act our organization has been continuously engaged in numerous efforts to promote the welfare of Indian children and families through collaborative efforts with the tribes, the State of Arizona Department of Economic Security, the Arizona State University School of Social Work, the Bureau of Indian Affairs and other agencies. These have included a joint Arizona Department of Economic Security, and ITCA project to assess the child welfare service delivery systems on Arizona reservations in 1981 and 1982; a study of the reported incidence of child abuse and neglect on Arizona reservations in 1983; advocacy to develop a state

funded program to prevent child abuse and neglect on reservations in 1984 and continuing to the present; and five annual conferences on Indian Child and Family Services which have brought together 400 representatives each year from state, federal, tribal and private agencies in annual forums to identify intergovernmental and service delivery issues.

Currently we are conducting a project with Arizona State University and the Arizona Department of Economic Security to define the skills, attitudes and values needed by human service workers who work with Indian families and we are developing a training curriculum based on the research of the project. As a part of this effort, and with support from the Bureau of Indian Affairs, we will be holding our third Tribal Child Protective Service Academy in December of this year. This is a highly professional 64 hour training program for tribal human services workers, police, probation officers, tribal court personnel and others in the medical, psycho-social, procedural and cultural aspects of delivering child protective services.

In 1983 when we conducted a survey of child abuse and neglect, 340 cases of substantiated child abuse and neglect were reported to us among 14 of the smaller tribes in Arizona. This year as we update that data, 439 cases of substantiated abuse and neglect have been reported from only six of those same tribes. These numbers do not include the victims of the highly publicized sexual abuse cases during the last two years on two of the northern reservations. Additional study needs to be conducted to determine if the increasing numbers mean there is more child abuse and neglect, or if the increase is a result of tribes 638 contracting their programs from the Bureau of Indian Affairs and

the Indian Health Service and dealing more openly with the problem and related social conditions.

Neither the Bureau of Indian Affairs nor the Indian Health Service have developed comprehensive initiatives, nor provided substantive resources to support coordinated systematic approaches with tribal governments for child protective services on Indian reservations. The BIA/IHS mandated federal child protective teams have failed to work with tribes in Arizona to develop appropriate mechanisms for coordination. When we proposed conducting our initial survey in 1984, representatives of the Bureau of Indian Affairs told us that child abuse and neglect is not a problem in Indian country. The Bureau's major approach to child welfare services has been, and continues to be, to pay for foster care placements for Indian children outside of their homes.

The issue of child abuse and neglect in both the Indian and non-Indian society is tightly interwoven with, and affected by, other social problems. These include substance abuse, family dysfunction, generational cycles of violence, socioeconomic problems as well as intercultural stresses, and other social problems without regard to income. To try to address the issue of child abuse and neglect without dealing with the other problems is an insufficient and in the long run ineffective way of addressing this condition.

Child welfare services, especially child protective services, must be designed to promote and strengthen Indian families, rather than to promote placement of children outside their families. In order to accomplish programs that truly protect children there must be both policy and resources to support tribal courts, comprehensive in-home services, aftercare and treatment for families, mental health

services, highly trained and skilled workers, and community education.

Aftercare and treatment services, particularly mental health services, are dismally lacking for children and families in Indian communities. Day care, is also a critically important program to support working families and those families who experience frustrations and may need substitute care for their children. In Arizona only three of the 20 tribes have day care services available on reservation and these are supported mainly through tribal funds and parent contributions.

There is no single source of funding to support all of the services that are needed and coordination is difficult to accomplish without adequate resources. Last week it was reported to us by a small tribe that a child was refused admission to a hospital for a physical evaluation in a suspected child abuse case because the Indian Health Service wouldn't authorize contract health care dollars. The situation was not considered to be a life and limb emergency by the IHS officials. A child protective service worker cannot protect children under these types of circumstances.

Caseloads are overwhelmingly high for individual workers. In one community, caseworkers carry a generic caseload of 70 cases apiece and respond as well as they can when a child protective service referral is reported. The Bureau of Indian Affairs must establish a priority to develop a program of child protective services with specially trained workers who have caseloads of no more than 30 families.

In any committee consideration on changes to federal laws an emphasis must be placed on service systems. What is needed is to structure the Bureau social services functions to emphasize service

delivery capabilities, and a stable source of funding for services.

Ten years since enactment of the Indian Child Welfare Act and the acknowledgement of tribal jurisdiction in Indian Child Welfare matters tribes are facing a serious dilemma in providing services. You have heard from the testimony presented here that hundreds of Indian Children in Arizona have been sexually abused by federal employees in federal education systems. Tribes cannot protect their children if the federal government does not adopt standards to ensure that teachers and others who work with children are morally sound. We can no longer tolerate the intrusion of less than fit characters into our childrens lives. The federal government must work with tribes to develop appropriate federal employee personnel standards and procedures to ensure the protection of Indian children placed in their care.

The tribal court systems are the mechanisms for appropriate remedies necessary to resolve legal issues related to child abuse and neglect. Tribal governments have been reviewing and examining their court systems to adapt to rapidly increasingly legal needs of their communities. Tribal governments are developing ordinances and regulations to govern an array of programs, activities and business proceedings, and they are committed to strengthening their court systems so that enforcement and other proper court actions may occur when legal actions are necessary.

However, tribal governments need access to training programs and need financial support for their training needs. Federal commitment to providing financial assistance to tribal courts is necessary if tribal courts are to be prepared for new and challenging legal questions.

The approach of strengthening tribal courts would be more expedient, less costly, and would preserve tribes' sovereign status as governments. Tribes have accepted their responsibilities to provide effective and appropriate legal remedies to address their own problems, specifically for child abuse and neglect proceedings.

A recent positive development has been the passage of a legislative amendment introduced by Senators John McCain and Dennis DeConcini at the request of the Gila River Indian Community making Indian child sexual abuse a felony. As a result of this amendment the U.S. Attorney's Office has responsibility for investigating and prosecuting Indian child sex abuse cases. However, the amendment has also generated a large case load for the U.S. Attorney. This office needs additional resources to continue to respond rapidly and vigorously to cases that are its responsibility. Additionally, interagency policies need to be developed among the U.S. Attorney's Office, the FBI, the BIA, and Tribal governments to expedite the investigation process for rapid disposition of the cases.

Thank you.

CHILD PROTECTIVE SERVICES TRAINING ACADAMY III

SESSION I: December 5 - 9, 1988

Course Outline

Monday, December 5

12:00 - 1:00 p.m.	Registration
1:00 - 1:15	Introduction and Orientation Polly Sharp, Maggie Allen
1:15 - 3:00	Overview of CPS Community Programs Maggie Allen
3:00 - 5:00	Medical Issues in CPS: Child Development Raun Melmed, M.D.

Tuesday, December 6, 1988

8:00 - 10:00 a.m.	Criminal Justice System Rod Lewis
10:00 - 11:45	Medical Issues in CPS: Emotional Maltreatment Dick Miller, Ph.D.
11:45 - 1:00 p.m.	Lunch
1:00 - 4:00	Investigation and Case Management Linda Castaneda
4:00 - 5:00	CPS Investigation: Medical Photography Randy Smith

Wednesday, December 7

8:00 - 12:00 noon	Psychological Issues in CPS: Sexually Abusive Families Sheryl Harrison, Ph.D.
12:00 - 1:00 P.M.	Lunch
1:00 - 4:00	Psychosocial Issues in CPS: Psychodynamics of Child Maltreatment Bruce Kushner, M.D.
4:00 - 5:00	CPS Procedures Polly Sharp

Thursday, December 8

8:00 - 9:30 a.m.	CPS Process in Arizona: An Overview Norma Garcia-Torres
9:30 - 11:00	Legal Issues in CPS: Indian Child Welfare Act Paul Matte
11:00 - 12:00 noon	Legal Issues in CPS: Dependency, Relinquishments and Adoptions Macre Innabinet
12:00 - 1:00 p.m.	Lunch
1:00 - 3:00	The Hostile Client Brian Yee
3:15 - 5:15	Worker/Agency Responsibility/Definition of Dependency Macre Innabinet

Friday, December 9

8:00 - 10:00 a.m.	Medical Issues in CPS: Sexual Abuse Dr. Mary Rimza
10:15 - 12:15 noon	Tribal Courts Hilda Manuel
12:15 - 1:15 p.m.	Lunch
1:15 - 3:15	Review of Tribal Juvenile Codes Maggie Allen, Polly Sharp

FORT PECK TRIBES
Assiniboine & Sioux

November 22, 1988

Senate Select Committee
Field Hearing

Honorable Senator McCain,

I am Richard Courchene, the Senior Researcher staff person designated by the Fort Peck Indian Reservation's Tribal Executive Board of the Assiniboine and Sioux To testify at these proceedings. I shall brief this forum on the condition as it exists, to the best of our knowledge, founded on the outcomes of a recent research study conducted on our reservation. The findings indicate that there has persisted, until now, a lack of response on the part of service providers to adequately investigate, document, evaluate victims, as well as perpetrators of child sexual abuse. The courts are hesitant to prosecute because of the lack of witness testimony, evidence protection, insufficiently trained police investigators, and the continuous non-reporting of professionals who are in charge of the children's care who are victimized.

Therefore, other Montana Tribes having indicated to our sexual abuse victims treatment project that there exists an undetermined level of incidence in their respective locales, we hasten to address the task of protection, and treatment.

It has become necessary, at this point, to hire core professionals to implement a treatment model that can continually be adusted

Poplar, Montana 59255 P.O. Box 1027 (406) 768-5155

and re-adjusted to tailor itself to our needs on the Fort Peck Indian Reservation. They are expensive, but we don't want to consider putting a ceiling on how much our childrens' peace of mind should cost. There are systems on-line through medicare and medicaid by which a service provider is reimbursed for the sake of the stability of our young, and very young Indian children's mental health. We must address the task of becoming a State and Federally certified component so that we meet all of the requirements established as their respective criteria in order to be eligible for payment for our services. Even in light of the fact that, although the available funding is limited as it exists, it will enhance our attempts at structuring a "child protective" system which translates into mentally wholesome livelihoods, which are otherwise destined to perpetuate the cycle, and be condemned to become perpetrators of sexual abuse and assault that has caused their little lives to be so terribly maligned. We have limited access to existing victim assistance programs primarily because of geographic remoteness, but that is not the only reason we cannot meet the unmet needs for sexual abuse victims' treatment; our primary target population is more than 5700 people, and there are but a few social service representatives, and fewer mental health counselors; and further - many of the children and adolescents we have sent to receive evaluations are most often so traumatized that intensified long-term treatment is the prescribed clinical approach. The treatment centers which we wished to refer several of our children to, do not have the "high-powered" credentials on staff and cannot provide the necessary therapeutic applications

called for; then there is the cross-culture factor to consider. There is not so much an ethnic gap in play so much as there is a cultural and traditional chasm that presents an impasse.

It is our intention to approach the private sector for development of third party funding sources, for this we must be incorporated to be established, and recognized as a not - for - profit organization, in order to enjoy non-profit status, with an assigned number from the United States Internal Revenue Service. All corporate foundations need an IRS number from recipients for obvious tax purposes. This popular "Trickle-down" theory that the present National Administration has popularized and championed shall be tested. Our little Indian people, our future fathers and mothers do not ask for much, they surely do not ask for what they have been burdened with - let us break the cycle!! Ultimately, we would like to renovate, or construct new, a facility to house the treatment capability that is needed. This takes months of planning, much cooperation, a great deal of money that we do not now have. Through cooperation, and a lot of hard work on the parts of many people, it is our belief this problem can be controlled, the cycle broken, and this portion of the human condition that has gone awry - rectified!! This is an ambitious undertaking, but a necessary endeavor in order to ensure cultural and traditional autonomy as a native people of America.

In conclusion, the declaration of our continued program emphasis in regards to goals for the coming months shall include, offender/

perpetrator treatment and follow-up. There must be this capability to factor-in a degree of control. By law, once the offender has paid his debt to society, there is no legal means of tracking these people. Certainly, for the duration of the period that parole conditions are extant, treatment therapy can possibly be mandated, as a pre-condition to granting of such parole. However, for our intents and purposes, we must be accepting of the fact that the offender is currently permitted the shroud of covert activity. Incessant therapeutic counselling is a major necessary service provision, to maintain offender stability, and also provide for a valuable tracking capability, so important to our ability to exact an assertive child protective policy for our sexually abused Indian youth, and vu[illegible]rable others.

Therefore it behooves us as a Tribal entity to seek, pursue, secure, and otherwise cause to exist a funded mechanism for the sole purpose of treatment service provision for sexually abused victims, and perpetrators of sexually abusive behavior.

Evaluation of clients costs $146,00 In-State, $192.77 Out-of-State. Evaluations take thirty days. In-patient treatment costs $79.84/day in Montana, compared to Wyoming state which is at a rate of $85,78/day. For sexuality treatment, the Montana rate is $150.00/day, the same as other surrounding states. Currently we have a list of 170 children who have experienced sexual molestation and abuse. The Tribal Courts records will bear out additional cases that have been validated as will the

I.H.S. Medical and Mental Health case records. At the time of this writing the Fort Peck Tribal Sexual Abuse Victims Treatment Project has identified the immediate crucial need for the provision of psychological evaluations and therapeutic treatment for 170 clients, plus.

To financially assume the costs incurred from client evaluation and recommended treatment, short and long term; contracted facility care; and out-patient therapy aftercare. It is the intention of the Fort Peck Assiniboine and Sioux Tribes to enter into an unsolicited contract agreement to make appropriations available to support the evaluation and appropriate therapeutic treatment care for our Tribal people, by appropriate clinicians.

Psychological Evaluation (Yellowstone) = $150.00/client & education fee
$46.70 - High School (or)
$41.20 - Elementary x 20 Clients = $3,934.00

Institutionalized Care and Therapeutic Treatment =
$150,00/day x 10 clients x 30 day = $45,000.00 - sub-total
and - $150,00/day x 5 clients x 180 days = $135,000.00 - sub-total
and - $150,00/day x 5 clients x 365 days = $273,750.00 - sub-total
$453,750.00 - Total
3,934.00 evaluation
$457,684.00

This is a cost projection that does not do three things, 1) it does not include the cost of the transportation of the clients to the treatment facility and return, 2) it does not include the per diem for the staff person(s) who shall do the transporting, and 3) it is formulated on only a projected 20 clients of a probable 170 clients, who will need evaluation, and we as non-

clinicians cannot say that all will not need institutionalized care short or long term, and we are ill prepared to indicate what percentage of the totally identified sexually abused children will be case managed through utilization of an out-patient treatment modality. It is to be considered an extremely conservative estimate to state 170 statistical limitations at this time. There shall, in all probability, be more cases identifying increasing numbers of victims as time goes on, and perpetrators of sexual abuse.

- Alternative -
(local treatment)

Cost reimbursable services at the local level are possible at a significantly lesser cost. What is would entail would be a minimal expenditure for refurbishment of an existing cottage facility Tribal property, the acreage in that vicinity which surrounds the cantonment is also Tribal.

Thank you for your time and patient consideration on the behalf of the Fort Peck Assiniboine and Sioux Tribes.

PREPARED STATEMENT OF ENOS FRANCISCO, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Child Abuse and Neglect is recognized as a major social problem in all segments of society. It is found in all social and economic levels and in all races and cultures. The Tohono O'odham Nation is no exception. In 1984, there were 30 Child abuse/neglect referrals received by the Tohono O'odham Social Service Department. By 1987, this number had increased to 288 reports of child abuse and neglect. This number will continue to increase as the community becomes increasing aware of the elements involving child abuse and neglect.

It is the philosophy of the Tohono O'odham Social Service Department to keep families together. It is a commitment of the Tohono O'odham Nation to insure that children and their families receive quality services. This is not always possible as there are not enough services or resources available to meet the needs of the families. Many times children are removed from their families because there are not enough staff to continually monitor the home environment. Workers are removing children knowing that harm might come to them if the home is not monitored. With resources to provide intensive in home services children do not have to be removed. This would also be more cost effective as children would remain in home. However, to be able to do this, more funding in child welfare services and more importantly child protective services on the Tohono O'odham Nation reservation is needed.

More attention also needs to be focused on the former policies of the federal government toward the Indian people. The Boarding School and Relocation policies of the federal government has recently emerged and has had a negative affect on child rearing practices. Off reservation boarding schools have long been a resource for social service programs due to the lack of placement facilities and education programs on the reservation. Today as the Tohono O'odham Nation begins to take control of its educational institutions more and more parents who have traditional not have had to deal with their children 9 months out of the year are finding out that they need help. Families that were part of the relocation policies have reared children away from the concept of the extended family and are also finding that they need help. A new problem has arisen. More work needs to go into the prevention of child abuse and neglect. Staff would have to be doubled to adequately provide services to the youth traditionally placed in boarding schools and their families.

The growing number of single parents and the rising divorce rate and the increase of teenage pregnancy have also affected the Tohono O'odham Nation, just as they have other segments of society. Increased drug and alcohol abuse have also become

additional factors in poor parenting practices. Again the focus in innovative funding strategies needs to be made in Child Protective Services. The appropriate role of any CPS delivery system is not only to identify the child victims but also to treat and protect the child. The increased number of abuse and neglect reports, lack the services to treat them because of the lack of federal funds. P.L. 93-638 contract monies is the major source of federal funding for protective services. Such services include prevention activities, counseling services. These services for the most part are provided by CPS workers. Therefore, increased funded is imperative to the provision of CPS.

If as a Nation, we want a decrease in the incident of child abuse and neglect we need more or continued fund to effectively provide needed services. The focus of child welfare services needs to be focused on providing intensive in-home services for children and less focus on removing children from families. Active programs that will address a person's whole realm of obstacles is needed. Programs presently available attempt to address these issues, however do not adequately do so.

Children are our Nation's future resources and therefore need our protection when they are not able to protect themselves.

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